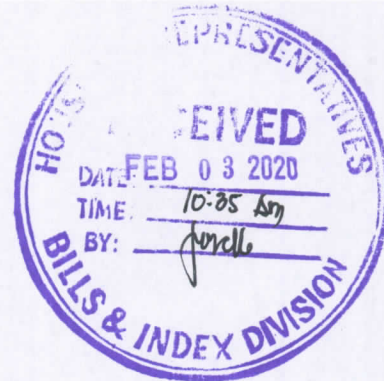


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
18th CONGRESS
First Regular Session



HOUSE BILL NO. 6143

Introduced by REP. JUNIE E. CUA
Lone District, Quirino

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

EXPLANATORY NOTE

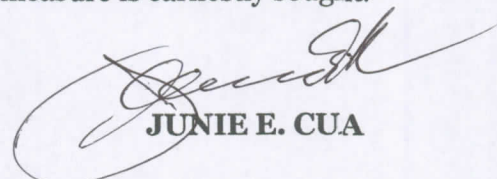
Consumer confidence and trust in the financial system promotes stability, growth, efficiency and innovation. However, with the rapid development of complex financial products coupled with the use of advanced technologies, consumer fraud, abuse and misconduct have increased. Time and again, we hear stories of consumers putting their life long savings in investment scams or suffering from or facing collection cases due to over indebtedness. These are just some of the travails experienced by financial consumers.

Thus, recognizing the role of regulators in ensuring that the rights of each and every consumer are protected, this bill provides, among others, financial regulators such as the Bangko Sentral ng Pilipinas, Insurance Commission and the Securities and Exchange Commission, rulemaking, surveillance and inspection, market monitoring, enforcement and adjudication powers relative to consumer protection.

In the international arena, the G20¹, in February 2011, called on the Organization for Economic Cooperation and Development (OECD), the Financial Stability Board (FSB) and other relevant international organizations to develop common principles on consumer protection in the field of financial services. Foremost of these principles is that financial consumer protection should be an integral part of the legal, regulatory and supervisory framework.

It is in this light that this bill is being introduced in order to have in place a comprehensive financial consumer protection regime wherein financial inclusion, financial education, good governance and effective supervision all come into play given that consumer protection is a shared responsibility among the regulators, consumers and other stakeholders.

In view of the foregoing reasons, passage of this measure is earnestly sought.


JUNIE E. CUA

¹ The Group of Twenty, or G20, is the central forum for international cooperation on financial and economic issues. It is composed of the EU and 19 countries, namely Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, the United Kingdom (UK) and the United States of America (USA).

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

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

1 **Section 1. Short Title** — This Act shall be known as the “Financial
2 Consumer Protection Act”.

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

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

19
20 **Section 3. Definition of Terms** - As used in this Act, the following
21 terms shall mean or be understood as follows:

- 22
23 a) **“Financial Consumer”** - a person or entity who is a purchaser,
24 lessee, recipient or prospective purchaser, lessor or recipient of
25 Financial Products or Services. It shall also refer to any natural
26 person or micro, small or medium-sized enterprise that had or
27 has current or prospective financial transaction with financial
28 entities pertaining to Financial Products or Services.
29

- 1 b) **“Financial Consumer Complaint”** - an expression of
2 dissatisfaction filed by a Financial Consumers against a Financial
3 Service Provider relative to a financial product or service in which
4 a response or resolution is expected.
5
6 c) **“Financial Products or Services”** - financial products or
7 services which are developed or marketed by a Financial Service
8 Provider which may include, but are not limited to savings, credit,
9 insurance, investments, payments, remittances and other similar
10 products and services. This also includes digital financial services
11 which pertain to the broad range of financial services accessed
12 and delivered through digital channels.
13
14 d) **“Financial Regulators”** - The implementing government
15 agencies of this Act, namely, the *Bangko Sentral ng Pilipinas*
16 (BSP), Securities and Exchange Commission (SEC), Insurance
17 Commission (IC) and the Cooperative Development Authority
(CDA).
18
19 e) **“Financial Service Provider”** – a person, natural or juridical
20 which provides financial products or services and are being
21 supervised or regulated by any of Financial Regulators
22 enumerated in this Act. This term shall include Investment
Advisers as defined under Section 7 of this Act.
23
24 e) **“Marketing”** - The act of communicating, offering, promoting,
25 advertising or delivering of Financial Products and Services by
Financial Service Providers.
26
27 f) **“Micro, Small or Medium-sized Enterprise (MSME)”** -
28 any business activity or enterprise engaged in industry, agri-
29 business and/or services whether single proprietorship,
30 cooperative, partnership or corporation as defined under R.A. No.
31 9501, as amended or the Magna Carta for Micro, Small or
32 Medium-sized Enterprise . Such definition shall be subject to
33 review and adjustment by the Magna Carta for Micro, Small or
Medium-sized Enterprise (MSMED) Council.

34
35 **Section 4. Scope and Coverage** – This Act applies to all Financial
36 Products and Services offered or marketed by any Financial Service Provider.
37

38 **Section 5. Financial Regulators** – The BSP, SEC and IC shall
39 enforce the provisions of this Act on all Financial Service Providers they
40 supervise or regulate by virtue of their respective charters, special laws and
41 amendments thereto. The CDA shall be considered an implementing
42 government agency of this Act only with respect to cooperatives offering
43 financial services such as but not limited to savings and credit except
44 insurance cooperatives which shall be under the jurisdiction of the IC for
45 purposes of this Act.
46

1 **Section 6. Powers of the Financial Regulators.** – Financial
2 Regulators shall have the following powers:

3
4 A. **Rulemaking** – Financial Regulators shall have the
5 authority to formulate their own standard and rules for the
6 application of the provisions of this Act to the specific
7 Financial Products or Services within their jurisdiction
8 guided by internationally accepted standards and practices.
9 Financial Regulators may also determine reasonableness of
10 charges or fees which a Financial Service Provider may
11 demand, collect or receive for any service or product offered
12 to consumers, except interest rates which shall be governed
13 by the Usury Law. Likewise, they may issue their respective
14 rules of procedure concerning administrative actions arising
15 from the implementation of this Act.

16
17 B. **Surveillance and Examination** – Financial Regulators
18 may conduct off-site surveillance and on-site examination on
19 their respective supervised Financial Service Providers to
20 ascertain that the provisions of this Act are complied with.
21 The examination for Financial Consumer protection
22 compliance may be conducted separately from examination
23 of prudential regulations compliance. The provisions on the
24 conduct of examination and surveillance provided in the
25 respective charters of Financial Regulators, and pertinent
26 special laws shall be made applicable in the examination and
27 surveillance under this Act.

28
29 The department heads and the examiners of the Financial
30 Regulators shall be authorized to administer oaths to any
31 director, officer, or employee of the supervised Financial
32 Service Providers subject to their examination, and to
33 compel the presentation of all books, documents, papers, or
34 records necessary in their judgment to ascertain the facts
35 relative to the compliance of Financial Service Providers to
36 this Act.

37
38 The supervised Financial Service Provider shall afford to its
39 respective Financial Regulator full opportunity to examine
40 its records, and review its systems and procedures at any
41 time during business hours when requested to do so by the
42 Financial Regulator.

43
44 C. **Market Monitoring** – Financial Regulators shall have the
45 authority to require their respective supervised Financial
46 Service Providers and their third party agents/service
47 providers to submit reports or documents, as needed, and to
48 access relevant data about financial products, services and
49 markets from other government agencies in connection with
50 market monitoring.

1
2 D. **Enforcement** – the Financial Regulators shall have the
3 authority to impose enforcement actions on their respective
4 supervised Financial Service Providers for non-compliance
5 with this Act. Such enforcement actions may include, but are
6 not limited to, the following:

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

27 The Financial Service Provider shall be afforded an
28 opportunity to defend its act or practice in a summary
29 hearing before the Financial Regulator or its designated
30 body, upon request made by the Financial Service Provider
31 within five (5) calendar days from its receipt of the order. If
32 no such hearing is requested within said period, the order
33 shall be final. If a hearing is requested by the Financial
34 Service Provider, the proceedings shall be conducted
35 summarily without adhering to the technical rules of
36 evidence, and all issues shall be determined primarily on
37 the basis of records, after which the Financial Regulator
38 may either reconsider or make final its order;

- 39 5. Suspension of operation of any supervised Financial
40 Service Provider in relation to a particular Financial
41 Product or Service when in the Financial Regulator's
42 judgment based on findings, the Financial Service Provider
43 is operating in violation of the provisions of this Act and its
44 implementing regulations.

1 E. *Adjudication* - Financial Regulators shall have the authority to
2 adjudicate all actions arising from or in connection with
3 financial transactions that are purely civil in nature and the
4 claim or relief prayed for by the Financial Consumer is solely
5 for payment or reimbursement of sum of money not exceeding
6 the amount of P100,000.00 or as may be prescribed by the
7 Financial Regulators. The decision of the Financial Regulators
8 in the adjudication shall be final and executory, and may not be
9 restrained or set aside by the court except on petition for
10 certiorari on the ground of lack or excess of jurisdiction of the
11 Financial Regulators. The petition for certiorari may only be
12 filed within ten (10) days from receipt by the aggrieved party of
13 the decision. The adjudicatory power shall be exercised by the
14 Head of the concerned Financial Regulator or a duly authorized
15 officer or body, *Provided*, that in case of BSP, the decision of
16 the authorized officer or body is not appealable to the Monetary
17 Board.

18
19 Financial Regulators may order the payment or
20 reimbursement of money which is subject of the action filed
21 before them. The Financial Regulators, in the exercise of their
22 adjudicatory powers, shall have the power to issue *subpoena*
23 *duces tecum* and summon witnesses to appear in its proceedings
24 and in appropriate cases, order the examination, search and
25 seizure of all documents, and books of accounts of any entity or
26 person under investigation as may be necessary for the proper
27 disposition of the cases before them. Further, Financial
28 Regulators shall have the authority to punish for contempt, both
29 direct and indirect, in accordance with the pertinent provisions
30 of and penalties prescribed by the Rules of Court.

31
32 F. *Other Powers* - Financial Regulators may exercise such other
33 powers as may be provided by their enabling laws or charters as
34 well as those which may be implied from, or which are
35 necessary or incidental to the carrying out of, the express
36 powers granted the Financial Regulators to achieve the
37 objectives and purposes of these laws.

38
39 **Section 7. Investment Adviser** – Investment Advisers shall be
40 subject to the rules and regulation to be issued by the SEC.

41
42 Investment Adviser shall mean any person who, for compensation,
43 engages in the business of advising others, either directly or through
44 publications or writings, as to the value of investment products or as to the
45 advisability of investing in, purchasing, or selling investment products, or
46 who, for compensation and as part of a regular business, issues or
47 promulgates analyses or reports concerning investment products; but does
48 not include the following:

49
50 a) Trust Department/Unit of Banks;

- 1
2 b) Lawyer, accountant, engineer, or teacher whose performance of
3 such services is solely incidental to the practice of his profession;
4
5 c) Any investment banker or broker dealer whose performance of such
6 services is solely incidental to the conduct of his business as such
7 investment banker or broker dealer and who receives no special
8 compensation therefor;
9
10 d) The publisher of any bona fide newspaper, news magazine or
11 business or financial publication of general and regular circulation;
12
13 e) Such other persons as the SEC may designate by rules and
14 regulations or order.
15

16 **Section 8. Duties and responsibilities of Financial Service**
17 **Providers –**
18

- 19 A. *Board and Senior Management Oversight* – The Board of
20 Directors (BOD) and Senior Management of Financial Service
21 Providers shall oversee the implementation of the Compliance
22 Management System (CMS) of Financial Service Providers that
23 effectively ensures conformity with this Act and shall provide the
24 means by which Financial Service Providers shall identify, measure,
25 monitor and control consumer protection risks inherent in its
26 operations.
27
28 B. *Appropriate product design and delivery* – Financial Service
29 Providers shall continuously evaluate their Financial Products and
30 Services to ensure that they are appropriately targeted to the needs,
31 understanding and capacity of both their markets and their clients.
32 This shall include, among others, the following:
33
34 1. *Affordability and suitability assessments* – Financial
35 Service Providers should have written procedures for
36 determining whether a particular Financial Consumer
37 product or service is suitable and affordable for a client.
38 This shall include determination of whether the amount
39 and terms of the offered financial product or service allow a
40 client, in terms of the individual ability, to meet the
41 obligations with a low probability of a serious hardship and
42 reasonable prospect that the Financial Product or Service
43 will provide value to its client. For the purpose of extending
44 credit, this assessment will include measures to prevent
45 over-indebtedness.
46
47 2. *Cooling-off period* – Financial Service Providers are
48 expected to adopt a clear cooling-off policy, as may be
49 prescribed by law or by rules and regulations issued by the
50 relevant Financial Regulator upon its determination that a
cooling-off period is necessary for a particular product

1 subject of regulation by such Financial Regulator. Such
2 policy should, among others, provide a client with a
3 cooling-off period that will allow a client to consider the
4 costs and risks of a Financial Product or Service, free from
5 the pressure of the sales team of the Financial Service
6 Provider. The length of the cooling-off period should be
7 individually determined by Financial Service Providers
8 based on reasonable expectation of the time required for a
9 client to fully evaluate all the terms and risks of the
10 Financial Products or Service and contact concerned
11 parties who may be affected by its terms and conditions,
12 unless a minimum or fixed period is required by the
13 Financial Regulator for compliance by the Financial Service
14 Provider or to be incorporated in the terms of the Financial
15 Product or Service. Short period transaction or contracts
16 may be allowed to have no cooling-off period which shall
17 be provided in the regulation by the Financial Regulators.

18
19 During the cooling-off period, the Financial Consumer may
20 cancel or return the contract without penalty; however,
21 nothing herein prevents the Financial Service Providers
22 from recovering the processing fees incurred. The
23 Financial Service Providers are prohibited from engaging
24 in practices that unreasonably burden the Financial
25 Consumer in the exercise of the right of cancellation during
26 the cooling-off period. If the financial product is a contract
27 of insurance, the right of return cannot be exercised after
28 the Financial Consumer has made a claim under the
29 contract of insurance.

- 30
31 3. *Prepayment of loans and other credit accommodations* –a
32 borrower may, at any time prior to the agreed maturity
33 date prepay, in whole or in part, Provided that any cost or
34 fees charged to the borrower for such pre-payment shall be
35 disclosed as required under the succeeding provision of
36 this Section on transparency, disclosure and responsible
37 pricing.

- 38 C. *Transparency, disclosure and responsible pricing* - Financial
39 Service Providers must ensure that they adopt disclosure principles
40 in their communications with Financial Consumers that will include
41 the use of clear and concise language understood by the target
42 clients. This must also include updated and accurate disclosure of
43 information such as, pricing or any cost associated with the product
44 or service that should be made in a consistent manner to facilitate
45 comparison between similar Financial Products and Services across
46 the industry.

47 Sufficient product disclosure must be provided before the
48 contracting of the product or service to give the client enough basis

1 and time for review. Any change in the terms of conditions of a
2 product or service shall be provided to the client.

3 In their advertising materials, Financial Service Providers shall
4 disclose the contact information of their consumer assistance unit
5 providing consumer assistance and handling Financial Consumer
6 Complaints. Financial Service Providers shall also disclose that
7 they are regulated and the advertising materials must identify the
8 relevant Financial Regulator.
9

10 Financial Service Providers are legally responsible for all statements
11 made in the marketing and sales materials that they produce
12 related to their products. Disclosure of information on Financial
13 Products or Services shall be made available to the public by the
14 Financial Service Provider through printed materials, mass media,
15 websites or digital platforms.
16

17 *Responsible pricing* – in addition to the requirements of R.A. No.
18 3765 or The Truth In Lending Act, Financial Service Providers are
19 required to document the reasons for setting the price of each
20 financial product or service. Where the pricing procedures of a
21 Financial Service Provider are inadequate or unreasonably high, the
22 concerned Financial Regulator shall impose appropriate corrective
23 actions.
24

25 D. *Fair and respectful treatment of clients* – Financial Service
26 Providers shall have the right to select their clients, *Provided*, that
27 the selection and treatment of their clients shall not involve
28 discrimination on the basis of a person's race, ethnicity, origin,
29 gender, disability, sexual orientation, religious affiliation or political
30 affiliation, *Provided further*, that Financial Service Providers are
31 not precluded from instituting the necessary risk mitigating
32 measures.
33

34 E. *Privacy and protection of client data* – each Financial Service
35 Provider must respect the privacy and protect the data of their
36 clients. Consistent with the provisions of the Data Privacy Act, the
37 Financial Regulators shall issue regulations governing the
38 disclosure of client data to a third party.
39

40 Clients have the right to review their client data to ensure that
41 inaccurate or deficient data is corrected or amended.
42

43 F. *Financial consumer protection assistance mechanism* – Each
44 Financial Service Provider must establish a single consumer
45 assistance unit to render free assistance to Financial Consumers on
46 financial transactions concerns. This shall include handling of
47 complaints, inquiries and requests.
48

49 Financial Consumers who are unsatisfied with the Financial Service
50 Provider's handling of their complaints, inquiries and requests, may

1 elevate their concerns to the Financial Regulator that supervises the
2 Financial Service Provider concerned.
3
4

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

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

15
16 **Section 11. No waiver of rights** – No provision of a contract for a
17 Financial Product or Service shall be lawful or enforceable if such provision
18 waives or otherwise deprives a client of a legal right to sue the Financial
19 Service Provider, receive information, have their complaints addressed and
20 resolved, have their non-public client data protected or cancel the use of the
21 Financial Product or Service without an unreasonable penalty.
22

23 **Section 12. Non-exemption from compliance** – Notwithstanding
24 any prior stipulation in a contract, financial entities shall not be exempted
25 from compliance with the provisions of this Act, or deprive Financial
26 Consumers of their rights under this act.
27

28 **Section 13. Liability of a Financial Service Provider on the**
29 **acts or omissions of its authorized representatives** – The Financial
30 Service Provider shall be responsible for the acts or omissions of its directors,
31 officers, employees or agents, in marketing and transacting with Financial
32 Consumers of its Financial Products and Services.
33

34 **Section 14. Prescription** – All actions or claims accruing under the
35 provisions of this Act and the rules and regulations issued pursuant thereto
36 shall prescribe within five (5) years from the time the Financial Consumer
37 transaction was consummated, or within five (5) years from the discovery of
38 deceit or non-disclosure of material facts. For insurance contracts, the
39 prescriptive period for the commencement of action provided under the
40 Insurance Code shall apply.
41

42 **Section 15. Penalty for Violation of this Act** – Whenever a
43 Financial Service Provider willfully violates any provision of this Act or any
44 related rules, regulations, orders or instructions, issued by the Financial
45 Regulators, the person or persons responsible for such violation shall be
46 punished by imprisonment of not less than one (1) year but not more than five
47 (5) years, or by a fine of not less than Fifty thousand (P50,000.00) pesos but

1 not more than Two Million Pesos (P2,000,000.00), or both, at the discretion
2 of the court. In addition, in case profit is gained or loss is avoided as a result
3 of the violation, a fine of no more than three (3) times the profit gained or loss
4 avoided may also be imposed.

5
6 **Section 16. Administrative Sanctions** – The provisions on
7 administrative sanctions of the respective charters of the Financial Regulators
8 shall be made applicable to any Financial Service Provider, its directors,
9 officers, employees or agents without prejudice to the enforcement actions
10 provided under Section 6 (D) of this Act and the criminal sanctions provided
11 under Section 15 of this Act, for any willful violation of this Act or any related
12 rules, regulations, orders or instructions of the Financial Regulators,
13 *Provided*, That in addition to the administrative sanctions that may be
14 imposed, the authority of the Financial Service Provider to operate in relation
15 to a particular Financial Products or Services may be suspended or cancelled
16 by the Financial Regulator.

17
18 **Section 17. Repealing clause** – All laws, executive orders, rules
19 and regulations or parts thereof which are inconsistent with this Act are
20 hereby repealed or amended accordingly. Articles 131 to 147 of Title IV of
21 Republic Act No. 7394 are hereby repealed.

22
23 **Section 18. Transitory provision** – The Financial Regulators shall
24 prepare the necessary rules and regulations to implement the provisions of
25 this Act within one (1) year from its effectivity.

26
27 **Section 19. Effectivity clause** – This Act shall take effect fifteen
28 (15) days after its publication in the Official Gazette or in at least two (2)
29 national newspapers of general circulation.

30
31 **Approved.**
32