



**HANDBOOK ON CONSUMER LAWS
COVERING BSP-SUPERVISED FINANCIAL INSTITUTIONS**

Volume I

Prepared by:

**BANGKO SENTRAL NG PILIPINAS
SUPERVISION AND EXAMINATION SECTOR
CONSUMER AFFAIRS GROUP**

I. Deposit-Related Laws and Regulations

A. Secrecy of Deposits

- R.A. No. 1405 (Law on Secrecy of Deposits) dated 09 September 1955, as amended by Presidential Decree (PD) No. 1792 issued 16 January 1981 and R.A. No. 7653 (New Central Bank Act) approved June 14, 1991 – prohibits disclosure of or inquiry into, deposits of clients with any banking institution and providing penalty thereof except:
 - upon written permission of the depositor;
 - in cases of impeachment;
 - upon order of a competent court in cases of bribery or dereliction of duty of public officials; and
 - in cases where the money deposited or invested is the subject matter of the litigation

- R.A. No. 6426 (Foreign Currency Deposit Act of the Philippines) dated 04 April 1974, as amended by PD No. 1035 issued 30 September 1976 and further amended by PD No. 1246 issued 21 November 1977 – provides that all foreign currency deposits authorized under this Act are considered of an absolutely confidential nature and, except upon the written permission of the depositor, in no instance shall foreign currency deposits be examined, inquired or looked into by any person, government official, bureau or office whether judicial or administrative or legislative, or any other entity whether public or private

- Rule 9.3.d, Revised Rules and Regulations Implementing R.A. No. 9160 (the Anti-Money Laundering Act of 2001) dated 29 September 2001, as amended by R.A. No. 9194 dated 06 August 2003 – prohibits covered institutions and their officers and employees, from communicating, directly or indirectly, in any manner or by any means, to any person, entity, or the media, the fact that a covered or suspicious transaction report was made, the contents thereof, or any other information in relation thereto

- Subsection X501.7, Manual of Regulations for Banks (MORB) – prohibits disclosure of or inquiry into foreign currency deposits of clients with any banking institution except upon the written permission of the depositor

- B. R.A. No. 6426 (Foreign Currency Deposit Act of the Philippines) dated 04 April 1974 as amended – provides that foreign currency deposits shall be exempt from attachment, garnishment, or any other order or process of any court, legislative body, government agency or any administrative body whatsoever

The law also provides that:

- there shall be no restriction on the withdrawal by the depositor of his deposit or on the transferability of the same abroad except those arising from the contract between the depositor and the bank; and
 - interest and all other income or earnings of foreign currency deposits made under this Act by nonresident individuals are exempt from any and all taxes (*as amended by the Tax Reform Act of 1997*)
- C. BSP Circular No. 498 dated 22 November 2005 – requires that the period of dormancy shall be properly disclosed among the terms and condition of the deposit, and that the depositors shall be informed by mail with proof of delivery service of the Philippine Postal Corporation or other mail couriers at least 60 days prior to the imposition of dormancy fees
- D. BSP Circular No. 485 dated 26 May 2005 – requires disclosure to consumers of the imposition of service and maintenance fees or changes in the terms and conditions for the imposition of service/maintenance fees on savings and demand deposits that fall below the required minimum average daily balance, whether active or dormant
- E. Section X243, MORB – requires bank to disclose to depositors the information on interest computation and payments. The information should be attached to the depositor's savings deposit passbook or time certificate of deposit. Posters disclosing the above information and aggregate deposit rates shall also be displayed conspicuously within the bank premises

II. Credit-Related Laws and Regulations

A. Fair Lending Practices

- R.A. No. 3765 (Truth in Lending Act) dated 22 June 1963 – requires the creditor to furnish to each person to whom credit is extended, prior to the consummation of the transaction, a clear statement in writing setting forth, to the extent applicable and in accordance with rules and regulations prescribed by the Monetary Board, the following information:
 - the cash price or delivered price of the property or service to be acquired;
 - the amounts, if any, to be credited as down payment and/or trade-in;
 - the difference between the amounts set forth under clauses (1) and (2);
 - the charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;
 - the total amount to be financed;
 - the finance charge expressed in terms of pesos and centavos; and
 - the percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding unpaid balance of the obligation

- Title IV, R.A No. 7394 (Consumer Act of the Philippines) dated 13 April 1992 – lays down the following provisions governing credit transactions to encourage the development of fair and economically sound consumer credit practices:
 - determination of the amount of the finance charges in connection with any consumer credit transaction;
 - determination of simple annual rate applicable to any extension of consumer credit;
 - agreement of parties involved in a consumer credit transaction to:
 - a delinquency charge on any installment not paid in full on or before the tenth day after its scheduled or deferred due date;
 - a deferral of all or part of one or more unpaid instalments and the charge that the creditor may make and collect, which shall not exceed the rate previously disclosed pursuant to the provisions on disclosure;
 - a finance charge in an open-end credit plan that is based on the amount financed resulting from the refinancing or consolidation at a rate not exceeding that permitted by the rules promulgated by BSP (see Note 1);

- prepayment of the unpaid balance of any consumer credit transaction, in full or in part at any time without penalty;
- rebate to the person to whom credit is extended, of an amount not less than the unearned portion of the finance charge calculated according to this law, upon prepayment in full of the unpaid balance of a precomputed consumer credit transaction, refinancing or consolidation;
- information disclosures required under this Act (shall be made clearly and conspicuously in writing before the transaction is consummated):
 - in the periodic statement transmitted by the creditor:
 - a) the simple annual rate;
 - b) the effective interest rate;
 - c) the date by which, or the period (if any) within which payment must be made in order to avoid additional finance charges; and
 - d) method of determining the balance upon which the finance charge may be imposed
 - under a consumer credit sale other than one pursuant to an open-end credit plan;
 - a) the cash price or delivered price of the property or service to be acquired;
 - b) the amounts, if any, to be credited as down payment and/or trade in;
 - c) the total amount to be financed or the difference between the amounts set forth under paragraphs (1) and (2);
 - d) the charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;
 - e) the finance charge expressed in terms of pesos and centavos;
 - f) the percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding balance of the obligation;
 - g) the effective interest rate;
 - h) the number, amount and due dates or periods of payments scheduled to repay the indebtedness; and
 - i) the default, delinquency or similar charges payable in the event of late payments
 - under an open-end consumer credit plan,
 - a) the conditions under which a finance charge may be imposed, including the time period, if any, within which any credit extended may be repaid without incurring a finance charge;

- b) the method of determining the balance upon which a finance charge may be imposed;
 - c) the method of determining the amount of the finance charges, including any minimum or fixed amount imposed as a finance charge;
 - d) where one or more periodic rates may be used to compute a finance charge, each such rate, the range of balances to which it is applicable, and the corresponding simple annual rate; and
 - e) the conditions under which the creditor may impose a security lien and a description of the goods to which such lien may attach
- under a consumer loan or in a transaction which is neither a consumer credit sale nor under an open-end consumer credit plan:
- a) the amount of credit of which the debtor will have the actual use, or which is or will be paid to him or for his account or to another person on his behalf;
 - b) all charges, individually itemized, which are included in the amount of credit extended but which are not part of the finance charge;
 - c) the total amount to be financed or the sum of the amounts referred to in paragraphs (a) and (b);
 - d) the finance charge expressed in terms or pesos and centavos;
 - e) the effective interest rate;
 - f) the percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding unpaid balance of the obligation;
 - g) the default, delinquency or similar charges payable in the event of late payments; and
 - h) a description of any security interest held or to be held or to be retained or acquired by the creditor in connection with the extension of credit and a clear identification of the property to which the security interest relates
- liability of any creditor in connection with any credit transaction who fails to disclose to any person any information required by this law - one thousand pesos (P1,000.00) or in amount equal to twice the finance charge required by such creditor in connection with such transaction, whichever is greater, except that such liability shall not exceed three thousand pesos (P3,000.00) for any credit transaction and actual damages with the non-disclosure of the required information

Notes:

1. *DOJ Opinions No. 69 Series of 1993 and No. 32, Series of 1994, have delineated to BSP the regulatory jurisdiction in implementing the rules and regulations under Title IV of the Consumer Act of the Philippines.*

2. Pertinent definitions under Article 4, R.A. No. 7394:

- "Consumer credit" – any credit extended by a creditor to a consumer for the sale or lease of any consumer product or service under which part or all of the price or payment therefor is payable at some future time, whether in full or in installments.
 - "Consumer loan" – a loan made by the lender to a person which is payable in installments for which a finance charge is or may be imposed. This term includes credit transactions pursuant to an open-end-credit plan other than a seller credit card.
 - "Consumer products and services" – goods, services and credits, debts or obligations which are primarily for personal, family, household or agricultural purposes, which shall include but not limited to food, drugs, cosmetics, and devices.
- Subsection X307.2, MORB; Subsection 4309Q.2 & Subsection 4307S.2, Manual of Regulations for Non-Banks and Financial Institutions (MORNBFI) – require the disclosure of information to the borrower pertinent to the loan between the borrower and the financial institution
 - Subsection 4307Q.4, MORBNFI – prohibits requiring the consent of an NBQB for customer to prepay his loan; it also requires a stipulation agreed upon by both parties for the payment of penalty on prepayments
 - Subsection X305.1, MORB & Subsection 4307Q.6, MORNBFI – provide that the rate of interest on borrowed money from financial institutions in the absence of stipulation shall be 12% per annum
 - Subsection X305.2, MORB and Subsection 4307Q.5, MORNBFI – stipulate that the rate of interest on borrowed money agreed upon between a borrower and a financial institution may be increased provided, that there is also a stipulation that the same shall be reduced in the event the maximum rate of interest is reduced by law or by the Monetary Board

B. Credit Card Operations

- R.A. No. 8484 (Access Devices Regulation Act) dated 11 February 1998 – requires that, any application to open a credit card account for any person under an open-end credit plan or a solicitation to open such an account, either by mail, telephone or other means, shall disclose the following information in writing or orally, as the case may be:
 - the annual percentage rate (APR);
 - the amount of any annual fees and other fees;
 - a detailed explanation of method used in determining the balance upon which the finance charge is computed;
 - any fee imposed for an extension of credit in the form of cash;

- any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to such amount;
 - a detailed explanation and a clear illustration of the manner by which all charges and fees are computed; and
 - in the open-end consumer credit plan made through catalogs, magazines, or other publications, disclosure in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number or mailing address which the applicant may contact to obtain any change in the information provided in the application or solicitation since it was printed
- BSP Circular No. 454 dated 24 September 2004 – lays down the rules and regulations governing credit card operations of banks and subsidiary credit card companies including affiliates; section 7 of the circular refers to unfair collection practices
 - BSP Circular No. 398 dated 21 August 2003 – requires that the development of consumer credit through innovative products such as credit cards shall be under conditions of fair and sound consumer credit practices
 - Subsection X320.4, MORB; Subsection 4301N.4 and Subsection 4337Q.4, MORNBFI – require disclosure of the following items:
 - non-finance charges, individually itemized, which are paid or to be paid by the cardholder in connection with the transaction but which are not incident to the extension of credit;
 - the percentage that the interest bears to the total amount to be financed expressed as a simple monthly or annual rate, as the case may be, on the outstanding balance of the obligation;
 - the effective interest rate per annum;
 - for installment loans, the number of installments, amount and due dates or periods of payment schedules to repay the indebtedness;
 - the default, late payment/penalty fees or similar delinquency-related charges payable in the event of late payments;
 - the conditions under which interest may be imposed, including the time period, within which any credit extended may be repaid without interest
 - the method of determining the balance upon which interest and/or delinquency charges may be imposed;
 - the method of determining the amount of interest and/or delinquency charges, including any minimum or fixed amount imposed as interest and/or delinquency charge;
 - where one or more periodic rates may be used to compute interest, each such rate, the range of balances to which it is applicable, and the corresponding simple annual rate;
 - other fees, such as membership/renewal fees, processing fees, collection fees, credit investigation fees and attorney's fees; and

- for transactions made in foreign currencies and/or outside the Philippines, for dual currency accounts (peso and dollar billings), as well as payments made by credit cardholders in any currency other than the billing currency: the application of payments; the manner of conversion from the transaction currency and payment currency to Philippine pesos or billing currency; definition or general description of verifiable blended exchange/conversion rates (e.g., MASTERCARD and/or VISA International rates on the day the item was processed/posted to the billing statement, plus mark-up, if any) including conversion commission; and/or other currency conversion charges and costs arising from the purchase by the card company of foreign currency to settle the customer's transactions shall also be disclosed
- Subsection X320.7, MORB; Subsection 4301N.7 and Subsection 4337Q.7, MORNBFI – the card issuer and the cardholder may, prior to the consummation of the transaction, agree in writing to a deferral of all or part of one or more unpaid installments and the bank may collect a deferral charge which shall not exceed the rate previously disclosed pursuant to the provisions on disclosure
- Subsection X320.8, MORB; Subsection 4301N.8 and Subsection 4337Q.8, MORBNFI – require that:
 - no late payment or penalty fee shall be collected from cardholders unless the collection thereof is fully disclosed in the contract between the issuer and the cardholder;
 - late payment or penalty fees shall be based on the unpaid minimum amount due or a prescribed minimum fixed amount; and
 - said late payment or penalty fees may be based on the total outstanding balance of the credit card obligation, including amounts payable under installment terms or deferred payment schemes, if the contract between the issuer and the cardholder contains “acceleration clause”
- Subsection X320.9, MORB; Subsection 4301N.9 and Subsection 4337Q.9, MORNBFI – require credit card companies to retain confidentiality of information of cardholder except under the following circumstances:
 - disclosure of information is with the consent of the cardholder or consumer;
 - release, submission or exchange of customer information with other financial institutions, credit information bureaus, credit card issuers, their subsidiaries and affiliates;
 - upon orders of court of competent jurisdiction or any government office or agency authorized by law, or under such conditions as may be prescribed by the Monetary Board;

- disclosure to collection agencies, counsels and other agents of the bank or card company to enforce its rights against the cardholder;
 - disclosure to third party service providers solely for the purpose of assisting or rendering services to the bank or card company in the administration of its credit card business; and
 - disclosure to third parties such as insurance companies, solely for the purpose of insuring the bank from cardholder default or other credit loss, and the cardholder from fraud or unauthorized charges
- Subsection X320.10, MORB; Subsection 4301N.10 and Subsection 4337Q.10, MORNBF1 – require card issuers to include in their contract with cardholders a provision authorizing the issuer to suspend or terminate the effectivity of the right to use the card, if circumstances warrant
 - Subsection X320.12, MORB; Subsection 4301N.12 and Subsection 4337Q.12, MORNBF1 – require the credit card issuer to inform/notify the credit cardholder in the agreement, contract or any equivalent document governing the issuance or use of the credit card that, pursuant to the provisions of Articles 1278 to 1290 of the New Civil Code of the Philippines, as amended, the use of his credit card will subject his deposit/s with the bank to offset against any amount/s due and payable on his credit card which have not been paid in accordance with the terms of the agreement/contract
 - Subsection X320.13, MORB; Subsection 4301N.13 and Subsection 4337Q.13, MORNBF1 – require credit card issuers to:
 - give cardholders at least twenty (20) calendar days from statement date to examine charges posted in his/her statement of account and inform the credit card companies in writing of any billing error or discrepancy;
 - within ten (10) calendar days from receipt of such written notice, the credit card issuer shall send a written acknowledgement to the cardholder unless the action required is taken within such ten-day period; and
 - not later than two (2) billing cycles or two months, which in no case shall exceed ninety (90) days after receipt of the notice and prior to taking any action to collect the contested amount, or any part thereof, credit card issuers shall make appropriate corrections in their records and/or send a written explanation or clarification to the cardholder after conducting an investigation
 - Subsection X320.14, MORB; Subsection 4301N.14 and Subsection 4337Q.14, MORNBF1 – require credit card issuers to observe good faith and reasonable conduct and refrain from engaging in unscrupulous or untoward acts to collect amounts due them under the credit card agreement

- Subsection X306.1, MORB – provides that the bank shall have the right to demand the obligation (for credit card receivable) in full in case of default in any installment thereon if the contract between the bank and the cardholder contains an “acceleration clause”

C. Microfinance Operations

- BSP Circular No. 272 dated 30 January 2001 – recognizes cash flow - based lending and provides for the exemption of microfinance loans from rules and regulations issued with regard to unsecured loans
- BSP Circular No. 409 dated 14 October 2003 – prescribes the rules, regulations and standards that shall govern microfinance operations of banks, which amend the Manual of Regulations for Banks, the Manual of Accounts for Universal Banks and Commercial Banks, the Manual of Accounts for Thrift Banks and the Manual of Accounts for Rural Banks

D. Home Mortgage

- Section X314, MORB/BSP Circular No. 343 dated 08 August 2002 – increased values and terms of loans for home building
- Section 18, PD No. 957 (The Subdivision and Condominium Buyers' Protective Decree) – requires the financial institution to notify the buyer of each lot or unit before the release of loan to the developer/owner; it further gives the right to the buyer to directly pay the installments due to the lending financial institution
- R.A. No. 7279 (Urban Development and Housing Act) dated 24 March 1992 – grants very low interest financing to beneficiaries under this program to purchase the land as a whole and to improve the sites

E. Credit for Agrarian Reform Beneficiaries

- PD No. 717 (Agrarian Reform Credit) dated 29 May 1975 - provides an agrarian reform credit and financing system for agrarian reform beneficiaries through banks
- Subsection X341.3, MORB – requires banks to set aside at least 25% of their loanable funds for agricultural credit in general, of which at least 10% of the loanable funds shall be made for agrarian reform credit
- BSP Circular No. 190 dated 16 February 1999 – provides guidelines on mandatory allocation of funds for Agri-Agra credit

F. Credit for Small and Medium Enterprises (SMEs)

- R.A. No. 6977 dated 24 January 1991, as amended by R.A. No. 8289 dated 06 May 1997 (Magna Carta for Small and Medium Enterprises) – requires the promotion, development and assistance to small and medium scale enterprises
- Section X342.2, MORB – requires mandatory allocation of credit for small and medium enterprises wherein at least 6% and 2% of total loan portfolio of banks will be made available for small and medium enterprises, respectively
- Appendix 55, MORB (SME Unified Lending Opportunities for National Growth [SULONG] Program) – requires conduit banks to lend short-term loans at 9%; for long-term loans - 3yr T-bond rate for 3yr loans & 5yr T-bond rate for 5yr loans, plus 2% to the bond rate

G. Credit for Barangay Micro Business Enterprises (BMBEs)

- R.A. No. 9178 (Barangay Micro Business Enterprises Act) dated 13 November 2002 – requires that the Land Bank of the Philippines (LBP), the Development Bank of the Philippines (DBP), the Small Business Guarantee and Finance Corporation (SBGFC), and the People's Credit and Finance Corporation (PCFC) set up a special credit window that will service the financing needs of BMBEs
- BSP Circular No. 549 dated 9 October 2006 – exempts loans to registered BMBEs from the submission of the following additional documents:
 - a copy of the latest ITR of the borrower and his co-maker, if applicable; and
 - a copy of the borrower's latest financial statement if engaged in business
- Section X365, MORB – requires bank to waive documentary requirements for BMBE borrowers

H. Credit for Agriculture and Fisheries Projects

- R.A. No. 8435 (Agriculture and Fisheries Modernization Act) dated 29 December 1997 – protects small farmers and fisher folk from unfair competition such as monopolistic practices by promoting a policy environment that provides them priority access to credit and strengthened cooperative-based marketing system
- BSP Circular No. 217 dated 11 November 1999 – lays down implementing guidelines for the setting of variable grace period for long-gestating agriculture and fisheries projects

- Section X349, MORB – provides possible deferment of initial amortization payments for a longer period based on the economic life of agricultural and fisheries projects

I. Pawnshop Transactions

- Section 4303P, MORNBF1 – gives the right of the pawner to renew his loan for such amount and period as may be agreed upon between the pawnshop and the pawner, subject to conditions provided by the MORNBF1; it further gives the right of the pawner who fails to pay or renew his obligation to redeem his pawn ninety (90) days from the date of maturity by paying the principal amount of the loan plus the amount of interest that shall have accrued thereon
- Section 4322P, MORNBF1 – requires the following information to be disclosed in the pawn ticket:
 - amount of the principal loan;
 - interest rate in percent;
 - period of maturity;
 - description of the pawn;
 - expiry date of redemption period; and
 - such other terms and conditions as may be agreed upon between the pawnshop and the pawner
- Section 4323P, MORNBF1 – requires the pawnshop to notify the pawner in writing on or before the expiration of the ninety (90)-day grace period:
 - that the pawn shall be sold or otherwise disposed of in the event that the pawner fails to redeem the pawn within the ninety (90)-day grace period; and
 - the date, hour and place where the sale shall take place

It further provides that the pawnshop may sell or dispose of the pawn only after it has published a notice of public auction of unredeemed articles held as security for loans in at least two (2) newspapers circulated in the city or municipality where the pawnshop has its place of business, six (6) days prior to the date set for the public auction. In remote areas where newspapers are neither published nor circulated, the publication shall be complied with by posting notices at the city hall or municipal building of the city or municipality and in two (2) other conspicuous public places where the pawnshop has its place of business.

- Section 4324P, MORNBF1 – requires public auctions to be held either at the pawnshop's place of business or any public place within the territorial limits of the municipality or city where the pawnshop conducts its business

- Section 4182P, MORNBF1 – No pawnshop shall close or transfer its place of business within three (3) months following the maturity of any loan or pledge, or before any pawn shall have been sold or disposed of

J. Remittance Operations

- BSP Circular No. 471 dated 24 January 2005 – requires the registration of foreign exchange dealers/money changers and remittance agents
- BSP Circular No. 534 dated 26 June 2006 – requires the disclosure of remittance charges and other relevant information

III. Investment-Related Laws and Regulations

- A. Subsection X410.7, MORB; Subsection 4410Q.7, MORNBF1 – provide the minimum disclosure requirements of Unit Investment Trust Fund (UITF) trustee to clients
- B. BSP Circular No. 541 dated 30 August 2006, amending Section X423, MORB and Section 4423Q, MORNBF1 – requires disclosure of fees collected by banks/NBQBs in connection with loans sourced from trust funds managed by their trust departments
- C. BSP Circular No. 524 dated 31 March 2006; Subsection 4211Q.4, MORNBF1 – require the delivery by the seller of securities to the buyer or to his 3rd party custodian
- D. Subsection 4144N.11 and Subsection 4441Q.11, MORNBF1 – require the confidentiality of client accounts under securities custodianship
- E. Subsection 4144N.8, Subsection 4441Q.8, MORNBF1 – require the protection of securities of the customer through proper accounting, recording, documentation and confirmation of custody
- F. Subsection 4626Q.6, MORNBF1 – requires information disclosure on asset backed securities (ABS) to be provided in a conspicuous manner in any document inviting investment, application to purchase ABS and in the certificate itself

IV. Electronic Banking Activities

- A. R.A. No. 8792 (E-Commerce Law) dated 14 June 2000 – provides that access to an electronic file, or an electronic signature of an electronic data message or electronic document shall only be authorized and enforced in favor of the individual or entity having a legal right to the possession or the use of the plaintext, electronic signature or file or solely for the authorized purposes

It also requires the confidentiality of information accessed by any person pursuant to any powers conferred under this Act

- B. BSP Circular No. 542 dated 01 September 2006 – provides consumer protection for electronic banking activities
- C. BSP Circular No. 269 dated 21 December 2000 – provides guidelines on electronic banking activities

V. Other Laws, Regulations, Policies

- A. Batas Pambansa Blg. 344 (Law for the Disabled), dated 07 December 1982; Subsection X606.1, MORB: Section 4157N, Section 4657P, Subsection 4651Q.9 and Subsection 4657S.9, MORNBF1 – require the installation and incorporation of facilities that shall enable the disabled persons who wish to transact business with financial institutions to have access to their premises