

Coverage of Circular No. 1169 (Circular)

The Circular embodies the rules that will govern the handling of complaints filed with the BSP by financial consumers against BSP-Supervised Institutions (BSIs). It also provides the following remedies that may be availed of by financial consumers in seeking BSIs' immediate resolution of their complaints: (a) BSP-CAM; (b) mediation; and (c) adjudication.

Circular No. 1169 is one of the two (2) Implementing Rules and Regulations (IRRs)¹ issued by the BSP to implement the provisions of the Republic Act No. 11765 also known as the Financial Products and Services Consumer Protection Act.

Financial Products and Services Consumer Protection Act (FCPA)

The FCPA took effect on 03 June 2022 and was enacted to provide appropriate mechanisms to protect the interest of the consumers of financial products and/or services under the conditions of transparency, fair and sound market conduct, as well as fair, reasonable, and effective handling of financial consumer disputes, which are aligned with global practices. The law also seeks to reinforce the confidence of the financial consumers in the financial market and to foster the stability of the financial system in the country.

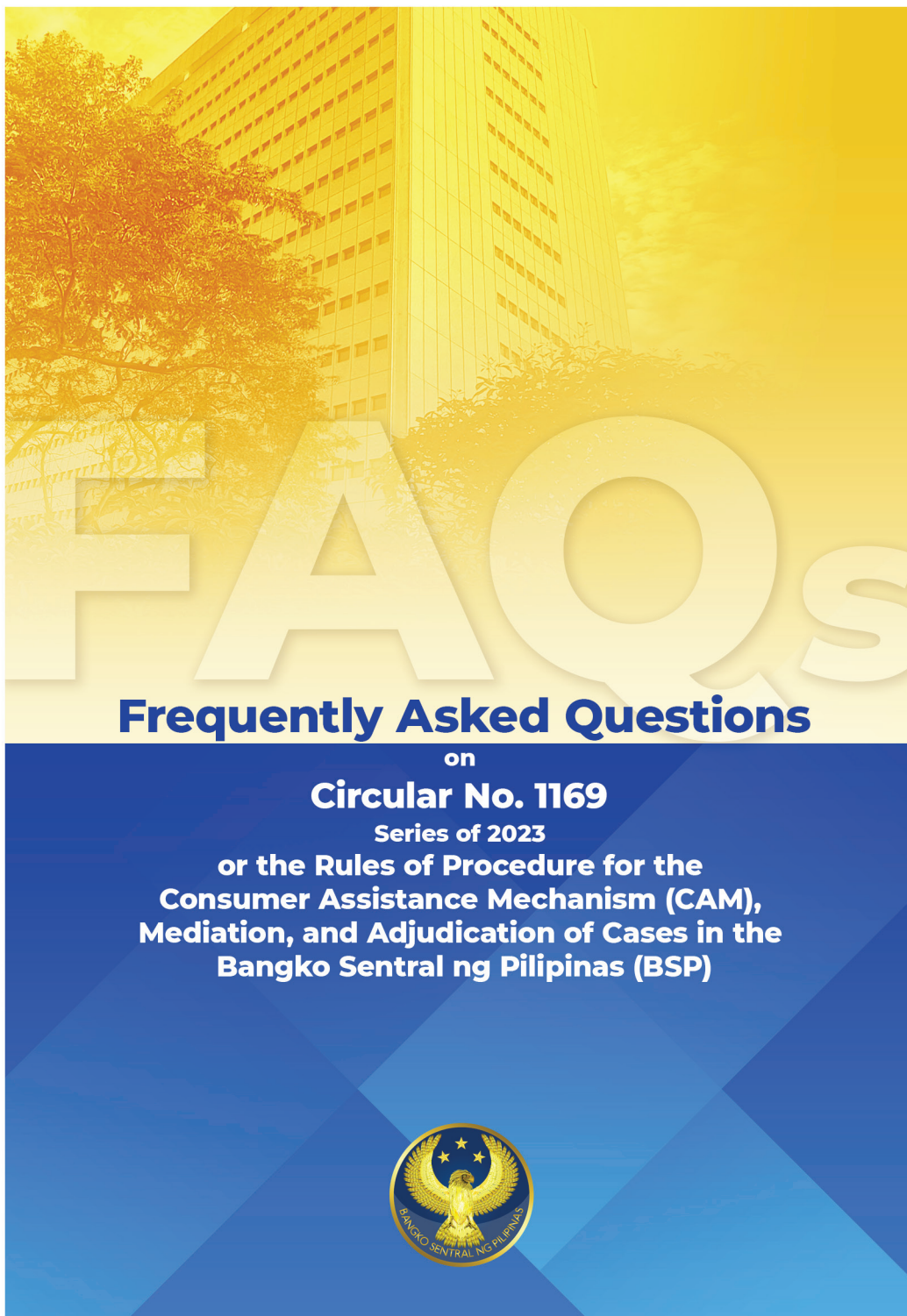
Rights of Consumers

The FCPA enshrines the following inalienable rights of financial consumers that it aims to protect:

- a. right to equitable and fair treatment;
- b. right to disclosure and transparency of financial products and services;
- c. right to protection of consumer assets against fraud and misuse;
- d. right to data privacy and protection; and
- e. right to timely handling and redress of complaints.

In upholding these rights, the law provides several measures and mechanisms that must be observed and undertaken by BSIs in dealing with their clients or potential clients who availed or will avail of their financial products and/or services.

¹ Circular No. 1160 or the Regulations on Financial Consumer Protection to Implement Republic Act No. 11765, otherwise known as the "Financial Products and Services Consumer Protection Act" dated 28 November 2022. This Circular provides for the rights of consumers, duties and obligations of BSIs and powers of the financial regulators. It took effect on 20 December 2022.



Non-Discrimination

While BSIs have the right to select their clients, they shall, however, not discriminate against clients based on race, age, financial capacity, ethnicity, origin, gender, disability, health condition, sexual orientation, religious affiliation and practice, or political affiliation except, as necessary, when making a risk assessment on a specific financial product and/or service.

Full Disclosure

BSIs must ensure that they adopt disclosure principles in their communications and contracts with financial consumers such that the latter will have a comprehensive understanding of the financial products and/or services which they may be availing.

Protection Against Fraud

BSIs are required to provide necessary assistance and relevant information to financial consumers relating to fraudulent or unauthorized transactions, including the actions taken, or to be taken, on the concerns of financial consumers involving such fraudulent and unauthorized transactions. BSIs must also adequately inform the financial consumers of their responsibilities and provide timely transaction notifications which are essential in curtailing and detecting fraudulent or unauthorized transactions.

Privacy and Protection of Client Data

BSIs must respect the privacy and protect the data of their clients. In doing so, BSIs shall adhere to the general data privacy principles of transparency, legitimate purpose, and proportionality under Republic Act No. 10173 or the Data Privacy Act of 2012 and its IRRs. These principles include: (i) having well-articulated privacy notices and policies, specifying the purpose/s for processing, and criteria being relied on as the lawful basis for processing client data; (ii) ensuring that the processing is necessary and not excessive in relation to the purpose/s; and (iii) implementing reasonable and appropriate information security measures and well-defined protocols for upholding data subject rights, among others.

Consumer Assistance

BSIs must ensure that financial consumers are afforded with accessible, independent, fair, accountable, timely, and efficient means for resolving concerns about their financial transactions. Accordingly, BSIs are mandated to establish a single consumer assistance mechanism for the effective handling and redress of financial consumers' concerns, inquiries, and requests regarding their financial transactions.

Powers of Financial Regulators

To effectively carry out the provisions of the law, the FCPA grants and enhances the powers that were already granted to the financial regulators. Under Section 6 of the FCPA, financial regulators which refer to the BSP, Securities and Exchange Commission (SEC), Insurance Commission (IC), and the Cooperative Development Authority (CDA) have the following powers:

- a. rulemaking;
- b. market conduct surveillance and examination;
- c. market monitoring;
- d. enforcement;
- e. consumer redress or complaints handling mechanism;
- f. adjudication; and
- g. such other powers as may be provided by enabling laws or charters of the financial regulators as well as those which may be implied from, or which are necessary or incidental to the carrying out of, the express powers granted to them to achieve the objectives and purposes of these laws.

Circular No. 1169 mainly implements Section 6 (E) and (F) of the FCPA which empowers the BSP to provide consumer redress or complaints handling mechanism to financial consumers who are dissatisfied with financial products and/or services, and to exercise adjudicatory powers. It was approved by the Monetary Board on 16 March 2023 and the same took effect on 01 May 2023.

This FAQs provides a detailed discussion and clear understanding on the rules of procedure for the CAM, mediation, and adjudication of cases in the BSP. It is therefore hoped that this FAQs will enhance the reader's knowledge and awareness on the consumer redress or complaints handling mechanisms, and adjudication of cases in the BSP.

1. What will I do if I have a complaint regarding financial products and/or services being offered by a BSI?

You should first report your complaint to the concerned BSI through its Financial Consumer Protection Assistance Mechanism (FCPAM).

2. What is FCPAM?

FCPAM is a first-level recourse mechanism provided by the BSI for financial consumers who are dissatisfied with a financial product and/or service. Financial consumers are therefore required to first report their concerns to the BSI involved through such BSI's FCPAM.

3. What will I do if the complaint I raised to the BSI through its FCPAM remains unresolved?

If your concern is still unresolved despite reporting it to the BSI involved through its FCPAM, then you may now escalate your concern to the BSP through its CAM by filing a complaint with the Consumer Protection and Market Conduct Office. This is also true in case there is an inaction on the part of the BSI.

4. What is BSP-CAM?

The BSP-CAM is a second-level recourse mechanism provided by the BSP to financial consumers who have reported their concerns to the BSI involved, upon which they may escalate their concerns against BSIs when they feel aggrieved by its conduct, products and/or services, inaction, and over-all handling of their issues through BSI's FCPAM.

5. How long does the entire BSP-CAM process take?

The entire BSP-CAM process may take 55 to 65 days starting from the receipt of the complaint up to termination of the same.

6. What office in the BSP is responsible for implementing the CAM?

The Consumer Protection and Market Conduct Office (CPMCO) is the BSP office mandated to implement the BSP-CAM.

7. What happens if I file a complaint directly with the CPMCO without going through BSI's FCPAM?

If upon determination by CPMCO that you have not yet availed of the BSI's FCPAM, CPMCO will advise you to first submit or file your complaint with the concerned BSI. This is to ensure that your remedy with the BSI is exhausted first. If you are dissatisfied with the actions of the BSI on your complaint, then you may resubmit your complaint to the CPMCO for the conduct of BSP-CAM.

8. Do I need a lawyer when I go through the BSP-CAM process?

No. You do not need a lawyer when availing of the BSP-CAM.

9. May a party be represented in the BSP-CAM?

Yes. A party may be represented in the BSP-CAM provided the same submits a written and signed authorization giving the representative authority to appear and act on the party's behalf during the proceedings, with full power and authority to bind the party on any matter, including the settlement of the case, as well as to sign and file any document required by the Circular. If a party is a juridical entity, a board or partnership resolution, with the corresponding Secretary's Certificate, or its equivalent for a foreign juridical entity, indicating the foregoing authorities are required.

10. May I escalate the concern of another person to the BSP against a BSI even if I am not the aggrieved party?

Unless you are duly authorized in writing by the aggrieved party or the real party-in-interest, you are not allowed to escalate the concern of another person against a BSI to the BSP.

Every action filed with the BSP may it be for CAM, mediation, or adjudication, must be made in the name of the real party-in-interest.

11. Who is a real party-in-interest?

A real party-in-interest, who may be a natural or juridical person, is the party named in the records of the BSI as the actual or prospective depositor, purchaser, lessee, recipient of a financial transaction with a BSI; or the account owner, credit card holder, borrower, lessee, mortgagor in an existing or prospective financial transaction with a BSI.

12. What are the details that should be included in the complaint filed with the CPMCO?

The complaint should contain the details of the information and supporting documents showing that you have previously availed of the BSI's FCPAM.

13. How is the complaint filed with the CPMCO?

The complaint for BSP-CAM may be filed either personally or through the BSP Online Buddy (BOB) chatbot, postal mail, courier, electronic mail or other electronic means.

The details of the different consumer assistance channels of the BSP are as follows:

- a. BSP BOB:
 - o BSP Webchat: Visit BSP's official website, <https://www.bsp.gov.ph/>, and click the webchat feature;
 - o Talk-to-BSP SMS: Send details of your concern to 21582277 (data and SMS fees apply); and
 - o BSP Facebook: <https://www.facebook.com/BangkoSentralngPilipinas>.
- b. E-mail: consumeraffairs@bsp.gov.ph
- c. Mail: Consumer Protection and Market Conduct Office
Strategic Communication and Advocacy
10th Floor Multi-Storey Building, BSP Complex
A. Mabini Street, Malate, 1004 Manila
- d. Fax: +632-8708-7088
- e. Phone: Direct Line: (02) 5306-2584, (02) 8708-7087
Trunk Line: (02) 8708-7701 loc. 2584
- f. Walk-in: Consumer Assistance Desk, Ground Floor
Multi-Storey Building, BSP Complex

You may also file your complaint with the nearest BSP Regional Offices or Branches, which shall assist you in filing your complaint through the BSP-CAM.

14. How does the BSP-CAM work?

The BSP-CAM commences through the filing of a complaint by the financial consumer against the concerned BSI with the CPMCO. After the CPMCO received and evaluated the complaint, it will direct the concerned BSI to submit its Answer within fifteen (15) days from the receipt of the directive. The Complainant may then file a Reply within thirty (30) days from the date of receipt of the BSI's Answer. Upon receipt of such Reply, the CPMCO will direct the BSI to provide its Rejoinder to the Complainant within ten (10) days from the receipt of the directive. Then, the Complainant may file a second Reply within ten (10) days from receipt of BSI's Rejoinder.

If it appears that the matter is still unresolved after the Rejoinder of the BSI to the Complainant, the CPMCO may offer the conduct of mediation to the Complainant and request for the latter's consent to the same. The Complainant has five (5) days within which to give consent. If the Complainant consented, CPMCO will now refer the matter to the Consumer Complaints Resolution Office for the conduct of mediation proceeding. However, the Complainant may also request in writing, for mediation or even go straight to adjudication, if he or she remains dissatisfied after two (2) replies of the BSI. In both instances (i.e., referral of CPMCO upon manifestation of the Complainant's willingness to undergo mediation, and request in writing by the Complainant), the consent of the concerned BSI is likewise required to proceed with the mediation as the same is purely voluntary.

15. May I withdraw the complaint filed with CPMCO?

Yes. You may withdraw your complaint filed with the CPMCO. In which case, the CPMCO will terminate the BSP-CAM upon receipt of the notice of voluntary withdrawal of the complaint from you or your duly authorized representative.

16. May I still refile the complaint after withdrawing the same?

Yes. You may still refile the complaint.

17. What are the instances in which the BSP-CAM is terminated?

The BSP-CAM is deemed terminated under the following circumstances:

- a. If no further communication from the Complainant was received by CPMCO within thirty (30) days from the date of the BSI's last response;

- b. BSI's failure to provide its: (i) Answer to the Complainant within fifteen (15) days from receipt of CPMCO's directive, or (ii) Rejoinder to the Complainant's Reply within ten (10) days from receipt of CPMCO's directive;
- c. By the voluntary agreement of the Complainant and BSI to proceed directly to mediation or if the Complainant fails to respond to CPMCO's offer of mediation within the five (5)-day period; and
- d. If after two (2) Replies, the Complainant remains dissatisfied with the BSI's response or action to such Replies and Complainant requests, in writing, for mediation and/or adjudication.

18. What will I do if the BSP-CAM process is terminated and my concern against the BSI remains unresolved?

You may proceed to either mediation or adjudication.

19. What is mediation?

Mediation is an intervention by which the BSP, through its authorized mediation officers, facilitates communication and negotiation between the parties and assists them in reaching a mutually acceptable settlement.

20. What office in the BSP is mandated to conduct mediation?

The Consumer Complaints Resolution Office (CCRO) is the BSP office mandated to conduct mediation.

21. How is mediation initiated?

Mediation is initiated by referral of the CPMCO of the financial consumer complaint to the CCRO upon: (a) manifestation of the Complainant of his or her willingness to undergo mediation; or (b) written request to undergo mediation signed by both the Complainant and the concerned BSI.

22. How long does the entire mediation process take?

The entire mediation process may take 50 to 60 days starting from the receipt of the referral from CPMCO.

23. How are mediation proceedings conducted?

The mediation proceedings are conducted virtually or through online video conferencing. However, parties who opt for in-person or face-to-face mediation may send a written request to the Mediator stating the reasons for such request. The Mediator may grant the request upon good cause shown.

24. Do I need a lawyer when appearing in the mediation?

No. You do not need a lawyer to appear in the mediation proceedings.

25. May a party be represented in the mediation?

Yes. A party may be represented in the mediation proceedings provided the same submits a Special Power of Attorney authorizing the representative to appear and act on the party's behalf during the proceedings, with full power and authority to bind the party on any matter, including the settlement of the case, as well as to sign any document required by the Circular. If a party is a juridical entity, a board or partnership resolution, with the corresponding Secretary's Certificate, or its equivalent for a foreign juridical entity, indicating the foregoing authorities are required.

26. May I proceed directly to mediation or adjudication without going through the BSP-CAM process?

No. The BSP-CAM is a condition precedent to both mediation and adjudication.

27. What is the mediation period and how many mediation sessions may be conducted?

The mediation period is thirty (30) days reckoned from the date of the initial mediation conference. However, a longer period may be allowed for meritorious reasons and as may be agreed upon by the parties.

The number of mediation sessions is dependent on the agreement of the parties and discretion of the Mediator.

28. What is the role of the Mediator?

The role of the Mediator is to facilitate the communication between the parties and assist them in reaching a mutually acceptable settlement.

29. What are the limitations on the power and authority of the Mediator?

The Mediator has no authority to: (a) conduct investigation of the facts claimed by both parties; (b) render judgment or decision on the dispute in favor of any of the parties; (c) determine propriety and extent of damages, if any; or (d) provide awards.

30. What is the Confidentiality Rule in mediation proceedings?

The Confidentiality Rule means that all information obtained during the mediation proceedings shall be privileged and confidential. As such, the parties, Mediator, non-party participant, or other BSP employees who participated in the mediation, shall not use any of the information obtained during the mediation nor shall share or disclose the same with any person. For this purpose, no minutes or records of the proceedings shall be made or maintained at any time, nor shall the sessions be recorded either in audio or video form.

31. What is the effect if any of the parties failed to appear in the mediation?

The failure of any of the parties to appear in two (2) consecutive scheduled mediation sessions despite due notice and without any valid reason, shall be a ground for the termination of the mediation proceedings.

32. How is the mediation proceeding terminated?

If the mediation is successful, the parties, personally or through their duly authorized representatives, shall execute a Settlement Agreement signed by them or their representatives. The Settlement Agreement shall be attested by the Mediator. Thereafter, the Mediator shall issue a Notice of Termination of Mediation.

On the other hand, if the parties are unable to settle their dispute, the Mediator shall declare a failure of mediation and terminate the proceedings by issuing a Notice of Termination of Mediation.

33. What is the effect of a Settlement Agreement?

A Settlement Agreement signed by the parties and attested by the Mediator shall be final and executory unless an action for nullification of the settlement has been filed before the proper court.

34. What is the next recourse in case the mediation is terminated, and the parties failed to reach an amicable settlement?

The aggrieved financial consumer may proceed to adjudication proceedings by filing a Formal Complaint against the concerned BSI with the CCRO provided that the complaint pertains to those arising from, or in connection with, financial transactions that are purely civil in nature, and the claim or relief prayed for is solely for payment or reimbursement of a sum of money not exceeding Ten Million Pesos (Php10,000,000.00) in total exclusive of legal interest, attorney's fees, and costs of suit. Otherwise, the aggrieved financial consumer may resort to other legal processes or remedies provided under the existing laws, rules and regulations.

35. What is adjudication?

Adjudication is a formal process by which the BSP, through a duly authorized officer also known as the Adjudicator hears and decides on the merits, the allegations or claims in the Formal Complaint filed by the financial consumer against the concerned BSI, and enforces such decision.

36. How long does the entire adjudication process take?

The entire adjudication process may take 180 to 240 days or 6 to 8 months from the receipt of the Formal Complaint up to the rendition of decision.

37. What office in the BSP is mandated to conduct adjudication proceedings?

The CCRO is the BSP office mandated to conduct adjudication proceedings.

38. Who is the proper party to file a Formal Complaint with the CCRO?

The proper party to file a Formal Complaint with the CCRO is the real party-in-interest who is the aggrieved party.

Real party-in-interest is the party named in the records of the BSI as the actual or prospective depositor, purchaser, lessee, recipient of a financial transaction with a BSI; or the account owner, credit card holder, borrower, lessee, mortgagor in an existing or prospective financial transaction with a BSI.

39. Do I need a lawyer in the adjudication proceedings?

No. You are not required to have a lawyer in BSP's adjudication proceedings. However, while a lawyer is not essential in adjudication proceedings, obtaining one may be advisable to fully protect the rights of the parties, as there are legal processes, and formal and essential requirements under the Circular that must be observed.

40. May a party be represented in the adjudication proceedings?

Yes. A party may be represented in the adjudication proceedings provided that a Special Power of Attorney is submitted authorizing the representative to appear and act on the party's behalf during the proceedings, with full power and authority to bind the party on any matter, including the settlement of the case, as well as to sign and file any pleading or document required by the Circular. If a party is a juridical entity, a board or partnership resolution, with the corresponding Secretary's Certificate, or its equivalent for a foreign juridical entity, indicating the foregoing authorities are required.

41. What is the scope and jurisdiction of the adjudicatory powers of the CCRO?

The CCRO has jurisdiction over financial consumer complaints arising from, or in connection with, financial transactions that are purely civil in nature, and the claim or relief prayed for is solely for payment or reimbursement of a sum of money not exceeding Ten Million Pesos (Php10,000,000.00) in total exclusive of legal interest, attorney's fees, and costs of suit.

42. What happens if my claim exceeds Ten Million Pesos (Php10,000,000.00) and what is my remedy?

Your Formal Complaint will be dismissed by the Adjudicator unless you adjust or waive the principal claim exceeding Ten Million Pesos (Php10,000,000.00). In case you do not wish to adjust or waive the excess, you may file your entire claim with the appropriate court.

43. May I claim any form of damages in the case filed against BSI?

No. Except as to the amount of actual money claim, legal interest, attorney's fees, and costs of suit, no other form of damages shall be recoverable.

44. What is counterclaim?

A counterclaim is any claim which a BSI may have against a Complainant.

45. May the concerned BSI file a counterclaim against the financial consumer in its verified Answer to the case filed against it with the CCRO?

No. Under the FCPA, the BSP has no authority to adjudicate counterclaims of BSI.

46. What is crossclaim?

A crossclaim is any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter of the original action.

47. May the Complainant or concerned BSI file a crossclaim with the CCRO?

No. Under the FCPA, the BSP has no authority to adjudicate crossclaims.

48. What is third (fourth, etc.)-party complaint?

A third (fourth, etc.)-party complaint is a claim that a BSI may file against a person not a party to the action, called the third (fourth, etc.)-party respondent for contribution, indemnity, subrogation, or any other relief, in respect of its opponent's claim.

49. May the concerned BSI file a third (fourth, etc.)-party complaint in the case filed against it with the CCRO?

No. Under the FCPA, the BSP has no authority to adjudicate third (fourth, etc.)-party complaints.

50. May I file a Formal Complaint with CCRO against a BSI for the nullification of foreclosure?

No. The Circular does not apply to cases involving questions on financial product and/or service in which the relief sought is other than payment or reimbursement of sum of money such as, but not limited to,

- a. prayer for nullification of foreclosure or other actions by a BSI;
- b. prayer for the equitable reduction of interests and penalties unless the BSP prescribes a specific regulation on the matter;
- c. investment products, bancassurance, or management contracts, or any issue involving the validity of or seeking the nullification of any financial product or service of the BSI; or
- d. plain action for damages.

51. How is an action commenced for the purpose of adjudication?

An action is commenced by filing with the CCRO a Formal Complaint in the form prescribed under the Circular, accompanied by a verification and certification of non-forum shopping, and supporting documents.

52. What is a Formal Complaint?

A Formal Complaint is a written statement filed for the purpose of adjudication containing the Complainant's cause or causes of action that accrued after the effectivity of the FCPA. A Formal Complaint should be verified under oath.

53. What is verification?

A verification is an affidavit wherein the affiant attests that:

- a. he or she read and understood the contents of a Formal Complaint or other pleading which are true and correct based on his or her personal knowledge and/or authentic records;
- b. the Formal Complaint or other pleading is not filed to harass, cause unnecessary delay or needlessly increase the cost of litigation; and
- c. the factual allegations in the Formal Complaint or other pleading have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

54. What is certification of non-forum shopping?

A certification of non-forum shopping is an affidavit wherein the affiant attests that:

- a. he or she has not commenced any action or proceeding involving the same issues in any court, tribunal, or agency;
- b. to the best of his or her knowledge, no such action or proceeding is pending in any court, tribunal, or agency; and
- c. if he or she learns thereafter that a similar action or proceeding has been filed or is pending before any court, tribunal or agency, the affiant shall report that fact to the CCRO, within five (5) days therefrom.

55. What happens if I submit a false verification and certification of non-forum shopping?

If you submit a false verification and certification, which constitutes willful and deliberate forum shopping, then your Formal Complaint will be dismissed with prejudice.

56. What is an affidavit?

An affidavit is a written statement or declaration of facts sworn before a notary public.

57. I reported a complaint to the BSI regarding an unauthorized transaction that occurred on my account in 2021 and the same remains unresolved. I escalated the matter to the BSP-CAM. However, the same remains unresolved. If I file a Formal Complaint for a claim of sum of money against the concerned BSI regarding such unauthorized transaction with CCRO, will the same prosper?

No, your Formal Complaint against the BSI filed with the CCRO will not prosper because your cause of action accrued prior to the effectivity of the FCPA.

Under the transitory provision (Section 65) of the Circular, the Rules shall apply to all complaints filed after its effectivity provided that the cause or causes of action subject of the complaint accrued after the effectivity of the FCPA.

In this case, the cause of action accrued prior to the effectivity of the FCPA which was on 03 June 2022.

58. How is a Formal Complaint filed?

The Formal Complaint may be filed personally or by postal mail with the CCRO.

59. Is there a fee in filing a Formal Complaint with the CCRO?

None. No fee will be collected when filing a Formal Complaint with the CCRO.

60. What is the difference between filing and service of pleadings, motions, or other required documents?

Filing is the act of submitting required documents such as pleadings and motions with the CCRO while service is the act of providing a copy of such documents to the other parties.

61. What is the mode of filing with the CCRO?

The mode of filing with the CCRO is through personal delivery or by postal mail.

62. What is the mode of service of documents?

The modes of service of pleadings, motions, orders, or processes are either through personal delivery, registered mail, courier, electronic mail or other modes of service as provided under the Circular.

63. What happens if I file a Formal Complaint not in accordance with the form prescribed by the BSP?

If upon determination of the Adjudicator that your Formal Complaint is not sufficient in form or does not comply with the formal and essential requisites as provided under the Circular, then your complaint will not be given due course by the Adjudicator. In which case, your Formal Complaint will be dismissed without prejudice.

64. What are the formal requisites of a Formal Complaint under the Circular?

The Formal Complaint shall be in writing and filed in as many copies as there are respondents plus two (2) copies for the CCRO. It shall be captioned by the name and address of the CCRO, and the names of the parties.

65. What are the essential requisites of a Formal Complaint under the Circular?

All Formal Complaints shall be duly verified, dated, signed, and shall incorporate and attach the following:

- a. Names and addresses of the parties. The complaining party shall be indicated as the "Complainant" and the party complained of, the "Respondent";
- b. A statement that the complaint has undergone BSP-CAM and that the BSP-CAM was terminated in accordance with Rule III, Section 11 of the Circular, together with any supporting document/s thereof;
- c. For cases that have undergone prior mediation, a statement that the case has undergone mediation together with any supporting document/s thereof;
- d. Concise statement of material facts and circumstances constituting the claim or demand including the date, time and place of the transaction of the acts or omission/s complained of;
- e. Supporting documents;
- f. Sworn statements or affidavits of witnesses and/or object and documentary evidence, if any;

- g. For cases falling under the concurrent jurisdiction of BSP, CDA, IC, and SEC, a sworn undertaking by the Complainant that he or she has not filed and shall not file any similar action or complaint before the other financial regulators involving the same issues or claims; and
- h. The relief prayed for.

66. What is the nature of the adjudication proceedings in the CCRO?

The adjudication proceedings before the CCRO are summary and non-litigious in nature. The technical rules of procedure obtaining in the courts of law shall not apply. As such, the proceedings involve the submission by the parties of their respective pleadings including preliminary conference briefs, positions papers, supporting documents and affidavits as well as other documentary evidence upon which the Adjudicator will render a decision. Moreover, the Adjudicator may conduct and require the parties to appear in a hearing to elicit facts or information for the prompt and just resolution of the case.

67. How are the adjudication proceedings conducted?

The adjudication proceedings are conducted primarily in person or face-to-face. However, the Adjudicator may conduct virtual hearing if warranted by the circumstances. Likewise, the parties who opt for virtual proceedings, may send a written request to the Adjudicator stating the reasons for such request and the same may be granted by the Adjudicator upon good cause shown.

68. What are the powers of the Adjudicator?

The Adjudicator may avail all reasonable means to ascertain the facts of the controversy. In the exercise of adjudicatory powers, the Adjudicator shall have the power to issue *subpoena duces tecum* and summon witnesses to appear in the proceedings and when appropriate, order the examination, search, seizure and production of all documents, books of accounts, and records, whether physical or digital, of any entity or person under investigation as may be necessary for the proper disposition of cases. The Adjudicator also has contempt powers.

69. What is the rule on concurrent jurisdiction?

In cases falling under the concurrent jurisdiction of the BSP, CDA, IC, and/or SEC, the CCRO shall dismiss the complaint if CDA, IC, or SEC has already acquired or assumed jurisdiction over the subject matter of the Formal Complaint.

If in CCRO's determination, the financial product or service which is subject of the Formal Complaint is primarily or substantially regulated by another financial regulator, the CCRO shall dismiss the Formal Complaint and refer the same to the financial regulator having jurisdiction over the financial product or service.

70. What happens if I file a Formal Complaint directly with the CCRO without going through BSP-CAM?

Your Formal Complaint will be dismissed by the Adjudicator. Failure to undergo BSP-CAM is one of the grounds for the dismissal of the Formal Complaint.

71. What are the grounds for dismissal of the Formal Complaint?

The following are the grounds for the dismissal of the Formal Complaint upon motion or *motu proprio*:

- a. Lack of jurisdiction over the subject matter;
- b. Lack of cause of action;
- c. Res Judicata;
- d. Prescription as provided under Section 14 of the FCPA;
- e. Forum shopping; or
- f. Failure to undergo BSP-CAM.

72. What happens after filing a Formal Complaint?

If the Formal Complaint is sufficient in form and substance, the Adjudicator shall forthwith issue summons directing the Respondent to submit a verified Answer.

73. How is the summons served?

The summons together with a copy of the Formal Complaint and its supporting documents are served either personally, or through registered mail or courier, to the president, managing partner, general manager, corporate secretary, treasurer, compliance officer or in-house counsel of the BSI wherever they may be found, or in their absence or unavailability, on their secretaries.

74. What is the period for serving and filing a verified Answer?

The Respondent shall serve on the Complainant and file with the CCRO a verified Answer within a non-extendible period of thirty (30) days from receipt of summons.

The verified Answer shall be accompanied by certified true copies of documents, as well as affidavits of witnesses and other evidence in support thereof.

75. May the parties enter into a compromise agreement even after filing a Formal Complaint with the CCRO?

Yes. The parties may enter into a compromise agreement at any time before the case is deemed submitted for decision.

To bind a party, a Special Power of Attorney shall be required if said party is represented by an authorized representative.

76. What happens to the case subject of the adjudication if the parties have already entered into a compromise agreement?

If the compromise agreement is submitted to, and approved by the Adjudicator, it shall have the same effect of a determination on the merits of the complaint. Hence, the case is dismissed, and the compromise agreement is deemed final and executory unless an action for nullification of the same has been filed before the proper court. If not submitted and approved by the Adjudicator, then the case is dismissed.

77. May I withdraw the Formal Complaint filed with the CCRO?

Yes. You may withdraw the Formal Complaint by filing a notice of withdrawal at any time before a decision is rendered. In which case, the Adjudicator shall issue an order dismissing the Formal Complaint. The dismissal shall be with prejudice if the Formal Complaint is withdrawn after the Respondent has filed a verified Answer.

78. May I refile the Formal Complaint with the CCRO after I withdrew it?

It depends. If you withdraw your Formal Complaint before the Respondent files a verified Answer, then you may refile it. However, if you withdraw your Formal Complaint after the Respondent filed a verified Answer, then you may not refile it.

79. What is the difference between dismissal with prejudice and dismissal without prejudice?

Dismissal with prejudice is an adjudication on the merits which disallows or bars the refiling of the Formal Complaint. On the other hand, dismissal without prejudice is not an adjudication on the merits and hence, it does not bar the refiling of the Formal Complaint.

80. What are the prohibited pleadings and motions?

- a. Motion to Dismiss except for instances provided under Question 71;
- b. Motion for Bill of Particulars;
- c. Motion for Judgment on the Pleadings;
- d. Motion for Summary Judgment or Relief from Judgment;
- e. Motion to Declare the Respondent in Default;
- f. Second Motion for Reconsideration;
- g. Dilatory Motion for Postponement;
- h. Third (fourth, etc.)-Party Complaint;
- i. Counterclaim and Crossclaim;
- j. Motion for Intervention;
- k. Memorandum;
- l. Appeal from any interlocutory order;
- m. Motion to Admit pleadings filed beyond the reglementary period; or
- n. Other motions of similar nature.

81. What happens if I file a prohibited pleading or motion?

A prohibited pleading or motion filed with the CCRO shall be considered a mere scrap of paper. It shall not be acted upon and shall be expunged from the records.

82. What happens after the Respondent filed a verified Answer?

Within fifteen (15) days from receipt of the verified Answer, the Adjudicator shall issue a notice to the parties or their authorized representatives directing them to appear in the Preliminary Conference on a specified date and time.

83. What happens during the Preliminary Conference?

In the Preliminary Conference, the Complainant and Respondent will appear before the Adjudicator for the purpose of:

- a. discussing the possibility of an amicable settlement;
- b. defining, simplifying or clarifying the issues in the case;
- c. entering into admissions and stipulations of facts and documents;
- d. confirmation of the pre-markings on the evidence of the parties; and
- e. taking up such other matters which may aid the Adjudicator in the prompt disposition of the case.

84. What happens if any evidence is not marked during the Preliminary Conference?

Any evidence not marked during the Preliminary Conference will no longer be admitted unless the Adjudicator allows the inclusion thereof for good cause shown.

85. What happens when the Complainant or the Respondent fails to appear in the Preliminary Conference?

Failure of the Complainant to appear in the Preliminary Conference without valid ground shall cause the dismissal of the Formal Complaint without prejudice. On the other hand, failure on the part of the Respondent to appear in the Preliminary Conference without valid ground shall cause to allow the Complainant to present his case *ex parte* and the Adjudicator to render judgment on the basis of documents and evidence presented.

86. Is there a document required to be filed before the Preliminary Conference?

Yes. The parties shall file with CCRO and furnish each other, in such manner as shall ensure their receipt thereof at least five (5) days before the date of the Preliminary Conference, their respective Preliminary Conference Briefs.

87. What should the Preliminary Conference Brief contain?

The Preliminary Conference Brief shall contain the following:

- a. a concise statement of the case and the reliefs prayed for;
- b. summary of admitted facts and proposed stipulation of facts;
- c. statement of factual and legal issues to be resolved;
- d. documents or other object evidence pre-marked by the parties, stating the purpose/s thereof. For the Complainant, markings shall be A, B, C, etc. For the Respondent, markings shall be 1, 2, 3, etc.;
- e. names of the witnesses, and the judicial affidavits of the witnesses;
- f. statement of parties' willingness to enter into amicable settlement;
- g. brief statement of points of law and citation of authorities; and
- h. such other matters as may aid in the just and speedy disposition of the case.

88. What is the form prescribed for the affidavit of witnesses?

All affidavits shall be in the format prescribed under Sections 3 and 4 of the A.M. No. 12-8-8-SC or the Judicial Affidavit Rule.

Sections 3 and 4 of the Judicial Affidavit Rule provide the contents of a judicial affidavit and sworn attestation of the lawyer, respectively, to wit:

Section 3. Contents of Judicial Affidavit. -

A judicial affidavit shall be prepared in the language known to the witness and, if not in English or Filipino, accompanied by a translation in English or Filipino, and shall contain the following:

- a. The name, age, residence or business address, and occupation of the witness;
- b. The name and address of the lawyer who conducts or supervises the examination of the witness and the place where the examination is being held;
- c. A statement that the witness is answering the questions asked of him, fully conscious that he does so under oath, and that he may face criminal liability for false testimony or perjury;

- d. Questions asked of the witness and his corresponding answers, consecutively numbered, that:
 - (1) Show the circumstances under which the witness acquired the facts upon which he testifies;
 - (2) Elicit from him those facts which are relevant to the issues that the case presents; and
 - (3) Identify the attached documentary and object evidence and establish their authenticity in accordance with the Rules of Court;
- e. The signature of the witness over his printed name; and
- f. A jurat with the signature of the notary public who administers the oath or an officer who is authorized by law to administer the same.

Section 4. Sworn Attestation of the Lawyer. -

- a. The judicial affidavit shall contain a sworn attestation at the end, executed by the lawyer who conducted or supervised the examination of the witness, to the effect that:
 - (1) He faithfully recorded or caused to be recorded the questions he asked and the corresponding answers that the witness gave; and
 - (2) Neither he nor any other person then present or assisting him coached the witness regarding the latter's answers.
- b. A false attestation shall subject the lawyer mentioned to disciplinary action, including disbarment.

89. What happens if the affidavit of witnesses does not conform to the format prescribed under the Judicial Affidavit Rule?

An affidavit that does not conform to the prescribed form under the Judicial Affidavit Rule will not be admitted as evidence by the Adjudicator.

90. What happens if any evidence was not included in the Preliminary Conference Brief?

Any evidence, whether testimonial or documentary, which is not included in the Preliminary Conference Brief, is deemed waived, unless the Adjudicator allows the inclusion thereof for good cause shown.

91. What happens when the Complainant or the Respondent failed to submit a Preliminary Conference Brief?

Failure of the Complainant to submit a Preliminary Conference Brief within the specified period without valid ground shall cause the dismissal of the Formal Complaint without prejudice.

On the other hand, failure of the Respondent to submit a Preliminary Conference Brief within the specified period without valid ground shall cause to allow the Complainant to present his case *ex parte* and the Adjudicator to render judgment based on documents and evidence presented.

92. What happens after the Preliminary Conference?

After the Preliminary Conference, the Adjudicator shall issue an order reciting in detail the matters taken up during the Preliminary Conference, the actions taken on such matters, and the agreements or admissions made by the parties as to any of the matters considered.

Likewise, the Adjudicator shall issue an order directing the parties to simultaneously submit their respective position papers, together with the supporting affidavits and/or documentary evidence attached thereto, on a date set by the Adjudicator within thirty (30) days from the date of termination of the Preliminary Conference.

93. What happens when the Complainant or the Respondent failed to file a position paper?

A party who fails to file a position paper within the given period shall be deemed to have waived the right to file the same.

94. May I raise new issues in the position paper?

No. The discussion in the position paper shall be confined to issues raised in the Formal Complaint and verified Answer as well as based on the evidence marked during the Preliminary Conference. All new issues raised in the position paper, whether factual or legal, which are not connected with, or relevant to, the matters/issues raised in the Formal Complaint and verified Answer shall not be passed upon in the decision of the Adjudicator.

95. What happens after the filing of the parties' position papers?

Upon the submission by the parties of their respective position papers or the lapse of the period to submit the same, the case shall be deemed submitted for decision unless the Adjudicator calls for a Clarificatory Hearing.

96. What is Clarificatory Hearing?

A Clarificatory Hearing is a formal proceeding wherein the parties are required to appear in a hearing before the Adjudicator for the purpose of eliciting facts or information for the prompt and just resolution of the case.

97. How is Clarificatory Hearing conducted?

Clarificatory Hearing is conducted primarily in person or face-to-face. However, the Adjudicator may conduct virtual hearing if warranted by the circumstances. Likewise, the parties who opt for virtual proceedings, may send a written request to the Adjudicator stating the reasons for such request and the same may be granted by the Adjudicator upon good cause shown.

98. What is the period for the Adjudicator to decide on a case filed with CCRO?

The Adjudicator has sixty (60) days within which to render a decision from the issuance of the order submitting the case for resolution. The period to resolve the case may be extended, for good cause, upon approval of the CCRO Director.

99. When does the decision of the Adjudicator becomes final and executory?

The decision of the Adjudicator becomes final and executory after the lapse of ten (10) days from receipt thereof by the parties unless a motion for reconsideration is filed.

100. What happens when the decision or order becomes final and executory?

The Adjudicator will issue a Writ of Execution directing the Sheriff to enforce the decision or order.

101. What is the effectivity period of Writ of Execution?

The Writ of Execution shall be effective for a period of five (5) years from the date of its issuance. After the lapse of such period, the decision or order shall become dormant, and an award may only be enforced by filing an independent action before the CCRO within a period of ten (10) years from the date of its finality.

102. What is an award?

An award means monetary restitution or reimbursement, including allowable damages, contained in the decision of the Adjudicator pursuant to Section 6 (F) of the FCPA.

103. What is the remedy in case of an adverse decision of the Adjudicator?

A party aggrieved by the decision or order of the Adjudicator may move for reconsideration of the same within ten (10) days from receipt thereof upon the grounds that the:

- a. evidence is insufficient to justify the decision or final order; or
- b. decision or final order is contrary to law.

A motion for reconsideration shall point out specifically the findings or conclusions of the decision or order which are not supported by the evidence, or which are contrary to law making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.

104. May I file a second motion reconsideration?

No. A second motion for reconsideration is not allowed as it is among the prohibited pleadings and motions.

105. May I appeal the decision of the Adjudicator to the Governor or Monetary Board of the BSP?

No. The decision, final order, or resolution of the Adjudicator on the motion for reconsideration is not appealable to the Governor or to the Monetary Board.

106. What is the remedy in case of an adverse decision of the Adjudicator on the motion for reconsideration?

A party aggrieved by the decision or resolution of the Adjudicator on the motion for reconsideration may file a petition for *certiorari* with the Court of Appeals within ten (10) days from the receipt of the decision, order, or resolution of the Adjudicator. Otherwise, the decision, final order, or resolution of the Adjudicator shall become final and executory.

107. What is the effect of filing a petition for *certiorari* on execution?

A petition for *certiorari* filed with the Court of Appeals shall not stay the execution of the assailed decision or order unless a restraining order or injunction is issued by the Court of Appeals.

108. What happens if any of the parties is misbehaving during the adjudication proceedings?

The Adjudicator may cite in direct contempt any person misbehaving in his or her presence and while the proceedings are ongoing.

109. What is direct contempt?

Direct contempt occurs when a person misbehaves in the Adjudicator's presence and while the proceedings are ongoing, including showing disrespect towards the Adjudicator, offensive acts towards others, or refusal to be sworn in or to answer as a witness or to subscribe to an affidavit when lawfully required to do so.

110. What happens if a party is cited in direct contempt?

Any person adjudged and held in direct contempt shall be punished by a fine and/or imprisonment in accordance with the rates and days prescribed under prevailing laws, rules, and jurisprudence.

111. What is the remedy of a person cited in direct contempt?

Under Rule 71 of the Rules of Court, a person adjudged in direct contempt may not appeal therefrom but may avail himself of the remedies of *certiorari* or prohibition.

112. What happens when the direct contempt is pending resolution?

The execution of the judgment holding such person to be in direct contempt shall be suspended pending resolution thereof, provided such person files a bond, amount of which shall be determined by the Adjudicator depending on the extent or effect of the act that was found to be contemptuous.

113. May a person be also cited in indirect contempt by the Adjudicator?

Yes. The Adjudicator may also cite any person for indirect contempt upon the grounds, and in the manner, provided under Rule 71 of the Rules of Court.

114. What is indirect contempt?

Indirect contempt is any misbehavior or disobedience committed outside the presence of the CCRO or Adjudicator.

115. What is the remedy of a person charged with indirect contempt?

Under Section 11 of Rule 71 of the Rules of Court, the judgment or final order of a court in a case of indirect contempt may be appealed to the proper court as in criminal cases. However, execution of the judgment or final order shall not be suspended until a bond is filed by the person adjudged in contempt, in an amount fixed by the court from which the appeal is taken, conditioned that if the appeal be decided against such person, the same will abide by and perform the judgment or final order.