

CIRCULAR NO. _____
Series of 2022
OFFICE OF THE GOVERNOR
Subject: RULES OF PROCEDURE FOR THE CONSUMER ASSISTANCE MECHANISM,
MEDIATION AND ADJUDICATION OF CASES IN THE BANGKO SENTRAL NG PILIPINAS

The Monetary Board, in its Resolution No. _____ dated _____ 2022, approved the following Rules of Procedure for the Consumer Assistance Mechanism (CAM), Mediation and Adjudication of Cases in the Bangko Sentral ng Pilipinas (BSP) pursuant to Section 6 (E) and (F) of Republic Act No. 11765 or the "Financial Products and Services Consumer Protection Act" (FCPA)

RULE I
GENERAL PROVISIONS

SECTION 1. TITLE. - These Rules shall be known as the "*Rules of Procedure for the Consumer Assistance Mechanism, Mediation and Adjudication of Cases in the Bangko Sentral ng Pilipinas.*"

SECTION 2. CONSTRUCTION. - These Rules shall be liberally construed and resolved in favor of the financial consumers to carry out the objectives of the FCPA.

SECTION 3. SUPPLEMENTARY APPLICATION OF THE RULES OF COURT. - These Rules of Procedure shall primarily govern the consumer assistance mechanism as well as mediation and adjudication of financial consumer complaints in the BSP.

In the absence of an applicable provision in these Rules, the pertinent provisions of the Rules of Court may be applied by analogy or in a supplementary character. The provisions of Republic Act No. 9285 or the Alternative Dispute Resolution (ADR) Act of 2004 shall likewise apply, if warranted under the circumstances.

RULE II
DEFINITION OF TERMS

SECTION 1. DEFINITION OF TERMS. The terms as defined under the FCPA are hereby adopted. For purposes of these Rules, the following terms are hereby defined as follows:

- a) *Consumer Complaint Resolution Office (CCRO)* is the BSP office mandated to conduct mediation and adjudication proceedings.
- b) *Adjudicator* shall be a duly-authorized officer appointed by the Governor of BSP to hear and decide complaints in accordance with Sec. 6(F) of the FCPA.
- c) *Affidavit* means a written statement or declaration of facts that are sworn or affirmed to be true.
- d) *Award* means monetary restitution or reimbursement, including allowable damages, contained in a decision by the Adjudicator of the complaint subject of the adjudication, as provided for in Sec. 6(F) of the FCPA.
- e) *BSP-Supervised Financial Institution* or *BSFI* pertains to entities supervised and/or regulated by the BSP.
- f) *BSP Sheriff* refers to the BSP official primarily responsible for the service of all processes and writs originating from the CCRO, and those that may be delegated to him by the CCRO, as well as the execution of said processes and writs.

- g) *Complainant* refers to a financial consumer as defined under the FCPA, whether a natural or juridical person, who initiated a complaint against a BSFI, involving issues pertaining to a prospective or current financial transaction with a BSFI in relation to its financial products and services.
- h) *Day* shall be understood to be “calendar” days.
- i) *Formal Complaint* is a pleading filed for the purpose of adjudication, which contains the complainant’s cause or causes of action under Sec. 6(F) of the FCPA. The complaint must be verified and allege all causes of action against the respondent arising out of the same financial product or service.
- j) *Mediator* is a duly-designated BSP officer who conducts Mediation proceedings.
- k) *Record* means an information written on a tangible medium or stored in an electronic or other similar medium that is in retrievable form.
- l) *Representative* is a person duly authorized in writing by a party to a dispute, who need not be a lawyer.
- m) *Respondent* is the BSFI against whom the relief sought is directed.
- n) *Videoconferencing/ Online Video Conference* refers to proceedings, including the taking of testimony, conducted through the use of any tool, device, system, application and technology that has sufficient interactive audio-video capabilities which allows all the parties physically located in different locations to simultaneously see, hear and communicate with, and present and confirm competent evidence of identity to each other in real time. These facilities include Webex, Zoom, Google Meet, Microsoft Teams and other similar web conferencing platforms.

RULE III CONSUMER ASSISTANCE MECHANISM

SECTION 1. CONSUMER ASSISTANCE MECHANISM (CAM). – The BSFI’s Financial Consumer Protection Assistance Mechanism (FCPAM) required to be established under Section 8(F) of the FCPA shall be the first-level recourse mechanism for financial consumers who are dissatisfied with a financial product or service. Complainants are first required to report their concern to the BSFI involved through such BFSI’s FCPAM. Financial consumers who are unsatisfied with the BSFI’s handling of their complaints, inquiries and requests, may escalate their concerns with the BSP-CAM, within ten (10) days from the date of termination of the FCPAM. Reporting the concern with the BSFI’s FCPAM is a condition precedent to the filing of a complaint to initiate the BSP-CAM.

The BSP-CAM is a second-level recourse mechanism for financial consumers who have already reported their concerns to their BSFI and are not satisfied with how the BSFI handled their concerns on the latter’s conduct, product and services, or handling of their issues within a reasonable period. The BSP-CAM is primarily facilitative in nature and is aimed at clarifying financial consumer issues by allowing the parties to communicate with each other through the BSP.

The complainant has the option to proceed to mediation or directly to adjudication, subject to the requirements of these Rules, if the dispute remains to be unsettled after undergoing BSP-CAM.

The BSP-CAM is a condition precedent before a party can resort to mediation and/ or adjudication.

SECTION 2. SCOPE. These Rules shall apply to concerns relating to the business conduct and transactions involving financial products and services of BSFIs and/ or violations of the provisions of the FCPA. These Rules shall not apply in the following cases:

- a) Cases with prayer/application for provisional remedies under the Rules of Court;
- b) Cases involving administrative and criminal sanctions under relevant laws, such as Republic Act No. 7653 as amended by Republic Act No. 11211 or "The New Central Bank Act", Republic Act No. 8791 or "The General Banking Law of 2000", Republic Act No. 8367 or "The Revised Non-Stock Savings and Loan Association Act of 1997", Republic Act No. 11127 or "The National Payment Systems Act", Republic Act No. 10574 or "The Rural Bank Act of 1992", Republic Act No. 7906 or "The Thrift Banks Act of 1995", Presidential Decree No. 114 or the "The Pawnshop Regulation Act", Republic Act No. 10870 or "The Philippine Credit Card Industry Regulation Law", and relevant issuances of BSP;
- c) Disputes over BSFI policies and procedures which are not covered by banking or related laws, or BSP rules and regulations, such as administrative policies or labor/ employment issues, and intra-corporate disputes;
- d) Cases that are pending with or already decided by any court or quasi-judicial body;
- e) Matters involving institutions not supervised by the BSP, such as lending investors, finance companies, insurance companies, cooperatives or microfinance non-government organizations, or cases involving claims against several respondents, one or some of whom is/are non-BSFI;
- f) Cases involving disqualification or administrative cases against directors, trustees and officers, or employees and agents of the BSFI, as covered by relevant BSP regulations;
- g) Claims against closed banks, which are under the jurisdiction of the Philippine Deposit Insurance Corporation (PDIC) or the appropriate liquidation court;
- h) Concerns on products or services offered by BSP;
- i) Claims against BSFIs filed by their third-party service providers, outsourcing counterparties, sales agents, and other parties not otherwise considered as financial consumers who availed of financial products and services of BSFIs;
- j) Cases involving request for production of documents and/or BSFI records;
- k) Complaints against BSFI employees, officers, and directors in their personal capacities;
- l) Cases covered by the rules/ adjudicatory power of another financial regulator, or such other complaints, claims, and concerns that fall under the authority of other government offices or agencies but do not fall under BSP jurisdiction as provided in the FCPA;

In all of the foregoing cases, BSP shall dismiss the complaint and advise the complainant to file the same with the appropriate government agency, as applicable.

SECTION 3. PROCEDURE. Complaints filed with the BSP must contain information and supporting documents showing that the complainant has previously availed the BSFI's FCPAM. Upon receipt of the complaint, BSP will determine, based on the complaint and its attachments, whether the complainant has availed of the BSFI's FCPAM. If BSP determines that the complainant has not yet availed of the BSFI's FCPAM, BSP shall advise the complainant to first report his concern with the BSFI involved. Should the complainant feel dissatisfied with the actions of the BSFI on the concern, the complainant may then resubmit his concern to the BSP-CAM, in accordance with Section 1 of this Rule.

SECTION 4. PARTIES IN INTEREST - Every action filed with the BSP must be made in the name of the real-party-in-interest, who may be a natural or juridical person. The term "real party-in-interest" is the party named in the records of the BSFI as the actual or prospective depositor, purchaser, lessee, recipient of a financial transaction with a BSFI; or the account owner, credit

card holder, borrower, lessee, mortgagor, as the case may be, in an existing or prospective financial transaction with a BSFI.

For complaints referred to BSP, the complaint must indicate the real party-in-interest.

If due to physical inability or unavailability, a written and signed authorization may be granted by any of the parties to the complaint to a representative, authorizing him/ her to represent the complainant in the BSP-CAM, specifically to appear and to offer, negotiate, accept, decide, and enter into a compromise or settlement agreement, without need of further approval by or notification to the authorizing parties. If the party is a juridical entity, a specific board or partnership resolution indicating the foregoing authorities shall be required.

SECTION 5. BSP-CAM PROCESS

a.) Filing

Financial consumers may avail of the BSP-CAM by submitting their complaint in the required format to the Consumer Protection and Market Conduct Office (CPMCO) through the BSP Online Buddy (BOB) Chatbot, postal, email or through other electronic means. Financial consumers may also file their complaints with the nearest BSP Regional Office or Branch.

The BSP may provide the necessary assistance to complainants from vulnerable sectors, particularly those who are not able to reduce their complaints into written format, for them to be able to file their complaint in the required format.

b.) Acknowledgment and Directive to Answer

The BSP shall acknowledge complaints that it received from financial consumers or referred to it, in accordance with the periods provided in its Citizen's Charter and under existing laws.

The acknowledgment may include request for additional details or relevant documents and records to support the claim, as may be deemed necessary to evaluate the complaint.

The BSFI shall be directed to provide its Answer to the complainant within ten (10) days from receipt of the directive. The BFSI shall simultaneously furnish the CPMCO a copy of the Answer.

c.) Referral of Replies

Within ten (10) days from the date of receipt of the BFSI's Answer, the Complainant may file a Reply with the CPMCO. The CPMCO shall refer the Reply to the BSFI and shall indicate that the BSFI is required to answer the Reply directly with the complainant within seven (7) days from receipt of the Reply, a copy of which shall be furnished the CPMCO.

The Complainant may file a second Reply within ten (10) days from the date of receipt of the BFSI's Answer to the first Reply. The CPMCO shall refer the second Reply to the BSFI and shall indicate that the BSFI is required to answer the Reply directly with the complainant within five (5) days from receipt of the second Reply, a copy of which shall be furnished the CPMCO.

SECTION 6. TERMINATION OF BSP-CAM. The BSP-CAM is deemed terminated under the following circumstances:

- a) If no Reply on the BSFI's Answer is received within seven (7) days from the date of complainant's receipt of the BSFI's first Answer or within five (5) days from the date of complainant's receipt of the BSFI's second Answer;

- b) By the complainant's voluntary withdrawal of the complaint, upon written notice to the CPMCO;
- c) By the voluntary agreement of the complainant and BSFI to proceed directly to mediation; and
- d) If after two (2) Replies, the complainant remains dissatisfied with the BSFI's response to such Replies and Complainant requests for mediation and/ or adjudication.

In this instance, the CPMCO shall process the complaint in accordance with the pertinent provisions of these Rules and/or refer the same to the BSP department or unit involved.

RULE IV MEDIATION

Section 1. MEDIATION is an intervention by which the BSP, through its appointed or designated mediation officers, facilitates communication and negotiation between the parties, and assists them in arriving at a workable settlement which is acceptable to both parties. It is voluntary in nature and is a strictly confidential process.

SECTION 2. SCOPE. These Rules shall apply to concerns relating to the business conduct and transactions involving financial products and services of BSFIs and/ or violations of the provisions of the FCPA. These Rules shall not apply in the following cases:

- a) Cases with prayer/application for provisional remedies under the Rules of Court;
- b) Cases involving administrative and criminal sanctions under relevant laws, such as Republic Act No. 7653 as amended by Republic Act No. 11211 or "The New Central Bank Act", Republic Act No. 8791 or "The General Banking Law of 2000", Republic Act No. 8367 or "The Revised Non-Stock Savings and Loan Association Act of 1997", Republic Act No. 11127 or "The National Payment Systems Act", Republic Act No. 10574 or "The Rural Bank Act of 1992", Republic Act No. 7906 or "The Thrift Banks Act of 1995", Presidential Decree No. 114 or the "The Pawnshop Regulation Act", Republic Act No. 10870 or "The Philippine Credit Card Industry Regulation Law", and relevant issuances of BSP;
- c) Disputes over BSFI policies and procedures which are not covered by banking or related laws, or BSP rules and regulations, such as administrative policies or labor/ employment issues, and intra-corporate disputes;
- d) Cases that are pending with or already decided by any court or quasi-judicial body;
- e) Matters involving institutions not supervised by the BSP, such as lending investors, finance companies, insurance companies, cooperatives or microfinance non-government organizations, or cases involving claims against several respondents, one or some of whom is/are non-BSFI;
- f) Cases involving disqualification or administrative cases against directors, trustees and officers, or employees and agents of the BSFI, as covered by relevant BSP regulations;
- g) Claims against closed banks, which are under the jurisdiction of the Philippine Deposit Insurance Corporation (PDIC) or the appropriate liquidation court;
- h) Concerns on products or services offered by BSP;
- i) Claims against BSFIs filed by their third-party service providers, outsourcing counterparties, sales agents, and other parties not otherwise considered as financial consumers who availed of financial products and services of BSFIs;
- j) Cases involving request for production of documents and/or BSFI records;
- k) Complaints against BSFI employees, officers, and directors in their personal capacities;
- l) Cases covered by the rules/ adjudicatory power of another financial regulator, or such other complaints, claims, and concerns that fall under the authority of other

government offices or agencies but do not fall under BSP jurisdiction as provided in the FCPA;

In all of the foregoing cases, BSP shall dismiss the complaint and advise the complainant to file the same with the appropriate government agency, as applicable.

Section 3. CONFIDENTIALITY RULE. All information obtained during the mediation proceedings shall be privileged and confidential. As such, the parties, including the Mediator, non-party participant or other BSP employees who participated in the mediation shall not use any of the information/gained in the mediation process nor shall be used or shared with any person who is not a party to any matter, document, or information during the session. For this purpose, no minutes or records of proceeding/session shall be maintained at any time, nor shall the sessions be recorded either in audio or video form.

Section 4. INITIATION OF MEDIATION PROCEEDING. Within fifteen (15) days from receipt of the written request by the complainant under Sections 6 (c) or (d) of Rule III, the CPMCO shall prepare a Memorandum addressed to the CCRO referring a complaint for initiation of mediation proceedings.

However, for complaints filed directly for Adjudication after the termination of the BSP-CAM, the parties may still opt to avail of Mediation at any time before the case is deemed submitted for decision as provided under the provisions of Section 24 of Rule V.

SECTION 5. PARTIES IN INTEREST - Every action filed with the BSP must be made in the name of the real-party-in-interest, who may be a natural or juridical person. The term "real party-in-interest" is the party named in the records of the BSFI as the actual or prospective depositor, purchaser, lessee, recipient of a financial transaction with a BSFI; or the account owner, credit card holder, borrower, lessee, mortgagor, as the case may be, in an existing or prospective financial transaction with a BSFI.

For complaints referred to BSP, the complaint must indicate the real party-in-interest.

If due to physical inability or unavailability, a written and signed authorization may be granted by any of the parties to the complaint to a representative, authorizing him/ her to represent the complainant in the mediation proceedings, specifically to appear and to offer, negotiate, accept, decide, and enter into a settlement agreement, without need of further approval by or notification to the authorizing parties. If the party is a juridical entity, a specific board or partnership resolution indicating the foregoing authorities shall be required.

Section 6. SCHEDULE OF MEDIATION. The Mediator shall initiate the conduct of mediation and issue a Notice of Mediation, within seven (7) days, from receipt of the Mediation Memorandum from CPMCO, indicating therein the date and time of the two settings for mediation conference, the platform to be used, and the submission of other requirements such as, but not limited to, duly accomplished Agreement to Mediate, identification documents, and Special Power of Attorney. The date of the initial mediation conference shall be set within seven (7) days from expiry of the period to issue a Notice of Mediation.

Cooperation from parties. By voluntarily participating in the mediation proceedings, the parties have the intention of settling their differences using a collaborative method and agrees in good faith to fully cooperate to a fair, sincere and meaningful settlement.

SECTION 7. NOTICE OF MEDIATION. The Notice of Mediation shall be served by personal service, courier or registered mail at the complainant's address on record and BSFI's principal place of business or its branch or office where the transaction involved took place or electronic mail.

SECTION 8. VENUE. The mediation proceedings may be conducted virtually or through online video conferencing. 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 same will be subject to the approval of the Mediator upon good cause shown. A mediation proceeding may also be conducted within the CCRO or in any of the regional offices, if warranted and under such circumstances as may be determined by the Mediator.

The online video conference shall only use the BSP-prescribed platform and as scheduled by the CCRO. The CCRO may also allow the use of alternative platforms or instant messaging applications with video call features, as long as these utilize end-to-end encryption and possess up-to-date security features of the video conference to protect data privacy. The parties shall be notified via email of the time and date, and the link or information on how to join the online video conference and shall be visible at all times during the online video conference.

SECTION 9. MEDIATION PERIOD.

The mediation period shall be for a period of thirty (30) days without further extension, which period shall be reckoned from the date of the receipt of the Mediation Memorandum by the CCRO.

SECTION 10. EFFECTS OF MEDIATION AND TERMINATION OF MEDIATION.

a) Settlement Agreement. If the mediation is successful, the parties, personally or through their duly authorized representatives, shall execute a Settlement Agreement signed by both parties or their representatives and by the Mediator following the prescribed form of BSP (Annex A) which shall be attested and submitted to the Mediator. The Mediator shall then issue a Notice of Termination.

b) Failure of Mediation – If the parties are unable to settle their dispute, the Mediator shall declare a failure of mediation and henceforth terminate the proceedings by issuing a Notice of Failure of Mediation.

SECTION 11. EFFECT OF COMPROMISE AGREEMENT. The Settlement Agreement shall be final and executory, unless an action for nullification of the settlement has been filed before the proper court. A settlement based on the terms stated therein shall have the same effect of a determination on the merits of the complaint.

SECTION 12. EFFECT OF THE FAILURE OF THE PARTIES TO APPEAR. The failure of any of the parties to appear in two (2) consecutive scheduled mediation sessions despite due notice without valid reason, shall be a ground for the termination of the mediation proceedings. The Mediator shall issue a corresponding Notice of Failure of Mediation to be served on the parties.

A party shall also be considered absent if the representative fails to show the appropriate and valid authorization.

SECTION 13. EXECUTION – The Settlement Agreement may be enforced by a Writ of Execution duly served by the BSP Sheriff within a reasonable period but not exceeding one (1) year from the date of the settlement. After the lapse of said period, the agreement may be enforced by an action filed before the regular courts.

**RULE V
ADJUDICATION**

SECTION 1. SCOPE AND JURISDICTION.

These Rules shall govern the procedure in actions filed before the CCRO for 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, in accordance with Section 6(F) of the FCPA. Except as to the amount of actual damages, legal interest, attorney's fees and costs of suit, no other form of damages shall be recoverable.

Complaints where the claim or relief prayed for exceeds Ten Million Pesos (Php10,000,000.00) in total shall be filed in the proper court or with the appropriate government agency having jurisdiction, as applicable.

These Rules shall not apply in cases where the complainant's cause of action/claim is pleaded in the same complaint with another cause of action outside the jurisdiction of the BSP, such as, but not limited to the following cases:

- a) Cases with prayer/application for provisional remedies under the Rules of Court;
- b) Cases involving administrative and criminal sanctions under relevant laws, such as Republic Act No. 7653 as amended by Republic Act No. 11211 or "The New Central Bank Act", Republic Act No. 8791 or "The General Banking Law of 2000", Republic Act No. 8367 or "The Revised Non-Stock Savings and Loan Association Act of 1997", Republic Act No. 11127 or "The National Payment Systems Act", Republic Act No. 10574 or "The Rural Bank Act of 1992", Republic Act No. 7906 or "The Thrift Banks Act of 1995", Presidential Decree No. 114 or the "The Pawnshop Regulation Act", Republic Act No. 10870 or "The Philippine Credit Card Industry Regulation Law", and relevant issuances of BSP;
- c) Disputes over BSFI policies and procedures which are not covered by banking or related laws, or BSP rules and regulations, such as administrative policies or labor/employment issues, and intra-corporate disputes;
- d) Cases that are pending with or already decided by any court or quasi-judicial body;
- e) Matters involving institutions not supervised by the BSP, such as lending investors, finance companies, insurance companies, cooperatives or microfinance non-government organizations, or cases involving claims against several respondents, one or some of whom is/are non-BSFI;
- f) Cases involving disqualification or administrative cases against directors, trustees and officers, or employees and agents of the BSFI, as covered by relevant regulations;
- g) Claims against closed banks, which are under the jurisdiction of the Philippine Deposit Insurance Corporation (PDIC) or the appropriate liquidation court;
- h) Concerns on products or services offered by BSP;
- i) Cases involving questions on the financial product or service where the relief sought is to avoid or prevent payment of a sum of money to the BSFI relative to the said financial product or service;
- j) Cases in which the relief sought is other than payment or reimbursement such as, but not limited to, prayer for the equitable reduction of interests and penalties unless the BSP prescribes a specific regulation on the matter, prayer for nullification of foreclosure or other actions by a BSFI, 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 BSFI, or plain action for damages;
- k) Claims against BSFIs filed by their third-party service providers, outsourcing counterparties, sales agents, and other parties not otherwise considered as financial consumers who availed of financial products and services of BSFIs;
- l) Cases involving request for production of documents and/or BSFI records;

- m) Complaints against BSFI employees, officers, and directors in their personal capacities;
- n) Cases covered by the rules/ adjudicatory power of another financial regulator, or such other complaints, claims, and concerns that fall under the authority of other government offices or agencies but do not fall under BSP jurisdiction as provided in the FCPA;
- o) Complaints on general pricing, product features, credit or underwriting decisions, or applications to restructure or reschedule a loan or financing pertaining to commercial loan transactions, unless the BSP prescribes a specific regulation on the matter; and
- p) Cases where the subject matter of which is incapable of pecuniary estimation.

In all of the foregoing cases, BSP shall dismiss the formal complaint and advise the complainant to file the same with the appropriate government agency, as applicable.

Only the BSP-CAM is a condition precedent to Adjudication.

SECTION 2. CONCURRENT JURISDICTION. In cases falling under the concurrent jurisdiction of the BSP, Cooperative Development Authority (CDA), Insurance Commission (IC), and/or Securities and Exchange Commission (SEC), as provided under the FCPA, the first government agency which acquires jurisdiction shall retain it to the exclusion of the others.

SECTION 3. NATURE OF PROCEEDINGS. - The proceedings before the BSP shall be summary and non-litigious in nature. The technical rules of procedure obtaining in the courts of law shall not strictly apply thereto. The Adjudicator may avail himself/herself of all reasonable means to ascertain the facts of the controversy, including the conduct of an ocular inspection and examination of deputized persons including BSP officials.

SECTION 4. QUANTUM OF EVIDENCE. The quantum of evidence necessary for a finding of liability in cases for adjudication filed with the BSP is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion.

SECTION 5. PROCEEDINGS - Adjudication proceedings shall be conducted in person or face-to-face. Upon request of the parties, proceedings may be conducted virtually or through online video conferencing. The online video conference shall use only the BSP-prescribed platform and as scheduled by the CCRO. The parties shall be notified via email of the time and date, and the link or information on how to join the online video conference and shall be visible at all times during the online video conference.

Parties who opt for virtual proceeding may send a written request to the Adjudicator stating the reasons for such request. The same will be subject to the approval of the Adjudicator upon good cause shown. An adjudication proceeding may also be conducted in any of the BSP Regional Offices or BSP Branches, if warranted and under such circumstances as may be determined by the Adjudicator.

SECTION 6. PARTIES IN INTEREST - Every action filed with the BSP must be made in the name of the real-party-in-interest, who may be a natural or juridical person. The term "real party-in-interest" is the party named in the records of the BSFI as the actual or prospective depositor, purchaser, lessee, recipient of a financial transaction with a BSFI; or the account owner, credit card holder, borrower, lessee, mortgagor, as the case may be, in an existing or prospective financial transaction with a BSFI.

For complaints referred to BSP, the complaint must indicate the real party-in-interest.

If due to physical inability or unavailability, a written and signed authorization may be granted by any of the parties to the complaint to a representative, who need not be a lawyer,

authorizing him/ her to represent the complainant in the adjudication proceedings, to do any other matter as may aid in the disposition of the case, and to sign and file any pleading or document required by this Rule. If the party is a juridical entity, a specific board or partnership resolution indicating the foregoing authorities shall be required.

SECTION 7. RECORDING OF ADJUDICATION PROCEEDINGS. - The adjudication proceedings shall be recorded, stored and filed to form part of the case files. No other person is allowed to record the proceedings.

SECTION 8. COMMENCEMENT - The action is commenced by filing with the CCRO a formal complaint in a form prescribed by the BSP (Annex B), accompanied by a Certification of Non-Forum Shopping (Annex C), and supporting documents as herein enumerated:

8.1 Essential Requirements. All formal complaints shall be duly verified, dated and signed, and shall incorporate/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, together with any supporting document thereof.
- c) For cases that have undergone prior mediation, a statement that the case has undergone Mediation;
- d) Concise statement of material facts and circumstances constituting the claim or demand including the date, time and place of the transaction of the act/s or omission/s complained of;
- e) Applicable laws;
- f) Supporting documents, preferably certified;
- g) Sworn statements or affidavits of witnesses and/or object and documentary evidence, if any; and
- h) The reliefs prayed for.

Any evidence, whether testimonial or documentary, which are not included in the formal complaint, are deemed waived.

8.2. Formal Requirements. The 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, the docket number, and the names of the parties.

8.3. Contents of Verification and Certification of Non-Forum Shopping, Splitting a Single Cause of Action and Multiplicity of Suits - The verification and certification shall comply with Sections 4 and 5, Rule 7 of the Rules of Court. A false certification, which constitutes willful and deliberate forum shopping, shall be a ground for the dismissal of the complaint with prejudice.

If the complainant is a juridical entity, the representative must submit proof of his authority in the form of a Secretary's Certificate, Board Resolution or Partnership Resolution, as the case may be.

8.4 Consolidation of cases. Provided that the individual claims for every cause of action do not exceed the jurisdictional amount of Ten Million Pesos (Php10,000,000.00), the consolidation of cases for purpose of joint hearing shall be allowed in the following cases:

- a) Where two (2) or more claims filed by a Complainant are pending adjudication in BSP, and it appears to the Adjudicator that:
 - i. the parties are the same;

- ii. the cases involve the same set of facts or questions of law; and
- iii. the reliefs prayed for arise out of the same transaction or series of transactions;

- b) Where two (2) or more claims filed by different Complainants are pending adjudication in BSP, and it appears to the Adjudicator that:
 - i. the Complainants are similarly situated;
 - ii. the cases involve the same set of facts or questions of law; and
 - iii. the reliefs prayed for arise out of the same transaction or series of transactions;

the Adjudicator may, upon motion by any party or motu proprio, order some or all such claims to be consolidated into one case to be jointly heard.

If an individual claim for any cause of action exceeds Php10,000,000, the BSP shall dismiss the case pertaining to such claim without prejudice and the complainant shall have the option to (a) adjust the claim or (b) file the appropriate case with the ordinary court.

SECTION 9. GROUNDS FOR THE DISMISSAL OF THE COMPLAINT - The following are the grounds for the dismissal of the complaint upon motion or motu proprio:

- a. Lack of jurisdiction over the subject matter;
- b. Res Judicata;
- c. Prescription;
- d. Forum shopping; and
- e. Failure to undergo BSP-CAM.

SECTION 10. PROHIBITED PLEADINGS AND MOTIONS. The following pleadings and motions shall not be allowed and shall be expunged from the records if filed:

- a) Motions to Dismiss the complaint, except as provided under Section 9 of this Rule;
- b) Motion for a 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 motions for postponement;
- h) Reply and rejoinder;
- i) Third-party complaints;
- j) Counter-claim and Cross-claim;
- k) Motion for interventions;
- l) Memorandum; or
- m) Other motions of similar nature.

SECTION 11. SPLITTING A SINGLE CAUSE OF ACTION AND MULTIPLICITY OF SUITS - The complainant may not file more than one complaint for a single cause of action.

If two or more complaints are instituted on the basis of the same cause of action, the filing of one or an adjudication in any one is a ground for the dismissal of the others.

SECTION 12. VENUE - The formal complaint may be filed, personally, or through registered mail or courier, with the CCRO located at the BSP Head Office.

SECTION 13. POWERS AND DUTIES OF THE ADJUDICATOR. The Adjudicator shall exercise all the powers of adjudication provided under the FCPA.

SECTION 14. APPEARANCES. In each case, a lawyer appearing for a party shall indicate in his/her pleadings and motions his/her Attorney's Roll Number, PTR and IBP numbers for the current year and MCLE compliance.

- a) Appearances shall be in writing and shall state the complete name, office address and contact details of counsel or authorized representative which shall be made of record. The adverse party or his counsel or authorized representative shall be properly notified thereof.
- b) In case of change of address, the counsel or representative shall file a notice of such change as soon as practicable, copy furnished the adverse party and counsel or representative, if any.
- c) Any change or withdrawal of counsel or authorized representative shall be made in accordance with the Rules of Court.

SECTION 15. AUTHORITY TO BIND PARTY - In all matters of procedure and stages of the proceeding, a counsel or other authorized representatives of parties shall have the authority to bind their client/s. However, a Special Power of Attorney shall be required in order to bind a party in case of a compromise agreement.

SECTION 16. WITHDRAWAL OF COMPLAINT - A complaint may be withdrawn by the complainant, as assisted by counsel, by filing a notice of withdrawal at any time before a decision is rendered.

SECTION 17. SUMMONS - If the complaint is sufficient in form and substance, the Adjudicator shall issue Summons within five (5) days from the receipt of the Complaint, directing the respondent to submit a verified Answer.

a) The Summons together with a copy of the formal complaint and its supporting documents shall be served 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 BFSI wherever they may be found, or in their absence or unavailability, on their secretaries.

Section 18. ANSWER. - The Respondent shall file with the CCRO and serve on the Complainant a verified Answer within a non-extendible period of fifteen (15) days from receipt of summons. The answer shall be accompanied by certified true copies of documents, as well as affidavits of witnesses and other evidence in support thereof. No evidence shall be allowed during the hearing which was not attached to or submitted together with the Answer, unless good cause is shown for the admission of additional evidence.

Any defense that may be raised in the counterclaim must be alleged in the Answer.

Section 19. EFFECT OF FAILURE TO FILE AN ANSWER. - Should the Respondent fail to file an answer to the complaint, the Adjudicator may proceed to render a decision based on the allegations and evidence of the Complainant. The Adjudicator may continue the proceedings ex parte.

SECTION 20. PRELIMINARY CONFERENCE - Within five (5) days from receipt of the Answer, the Adjudicator shall issue a Notice to the parties or their authorized representatives directing them to appear before him/her for a preliminary conference on a specified date and time.

The preliminary conference shall be called for the purpose of:

- 1) discussing the possibility of an amicable settlement;

- 2) defining, simplifying or clarifying the issues in the case;
- 3) entering into admissions and stipulations of facts and documents;
- 4) marking of evidence; and
- 5) taking up such other matters which may aid the Adjudicator in the prompt disposition of the case.

SECTION 21. NON-APPEARANCE OF PARTIES - Failure of the complainant to appear in the preliminary conference shall cause the dismissal of the complaint. Failure of the respondent to appear shall have the same effect as a failure to file an Answer.

SECTION 22. FILING OF POSITION PAPERS. After the preliminary conference, 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 fifteen (15) days from the date of termination of the preliminary conference. 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. After submission of the position papers, there is no need for the parties to appear in a succeeding hearing unless the conduct thereof is determined necessary by the Adjudicator

The discussion in the Position Paper shall be confined to issues raised in the complaint. All new issues raised in the Position Paper which are not connected with or relevant to the matters/issues raised in the complaint shall not be passed upon in the decision of the Adjudicator.

The affidavits of the parties and any of their witnesses shall take the place of their direct testimonies.

SECTION 23. CLARIFICATORY HEARING. The Adjudicator may conduct and require the parties to appear in a hearing, which may be done through video conferencing, to elicit facts or information necessary for the prompt and just resolution of the case.

A party may raise a clarificatory question to an opposing party, but it shall only be coured through the Adjudicator who, for reason of relevancy and materiality to the issue, has the discretion to ask the same or not.

Cross examination of witnesses or affiants shall not be permitted during the clarificatory hearing.

The Adjudicator may conduct the proceedings ex-parte in case of non-appearance by either of the parties during the clarificatory conference.

SECTION 24. DECISION. The Adjudicator shall render a decision within sixty (60) days from the date the case is deemed submitted for resolution.

RULE VI CONTEMPT

SECTION 1. DIRECT CONTEMPT. - The Adjudicator authorized to try the case and conduct hearings or preside over proceedings on matters connected herewith may summarily adjudge and hold in direct contempt any person who has committed or is committing any act of misbehavior in his presence and while the proceedings are ongoing, including showing disrespect towards him, offensive personalities towards others, or refusal to be sworn in or to answer as a witness or to subscribe to an affidavit or deposition when lawfully required to do

so. 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.

SECTION 2. REMEDY. – Should the person held in contempt avail himself of remedies available to question the contempt order, 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.

SECTION 3. INDIRECT CONTEMPT. The Adjudicator may also cite any person for indirect contempt upon the grounds, and in the manner, provided under Rule 71 of the Revised Rules of Court.

RULE VII FINALITY OF THE DECISION OR ORDER

SECTION 1. MOTION FOR RECONSIDERATION OF DECISIONS AND ORDERS. A party may move for a reconsideration of a decision or order of the Adjudicator within ten (10) days from receipt thereof. A second motion for reconsideration is not allowed, and the filing thereof will not toll the running of the period to file the appropriate remedy under the law.

SECTION 2. COMMENT OR OPPOSITION TO THE MOTION. – A comment or opposition to the motion may be filed within ten (10) days from receipt thereof.

SECTION 3. RESOLUTION OF MOTION. – A motion for reconsideration shall be resolved within thirty (30) days from the time it is submitted for resolution.

SECTION 4. FINALITY OF DECISION OR ORDER. – The decision shall be final and executory after the lapse of ten (10) days from receipt of the decision by the parties, unless a motion for reconsideration is filed. The decision or resolution on the motion for reconsideration is not appealable to the Governor or to the Monetary Board.

SECTION 5. ENTRY OF DECISION OR ORDER. – After the decision or order becomes final and executory, the same shall be entered in the book of entries of judgments. The date of finality of the decision or order shall be deemed to be the date of its finality.

RULE VIII EXECUTION OF DECISION OR ORDER; ENFORCEMENT OF WRIT OF EXECUTION

SECTION 1. EXECUTION OF DECISION OR ORDER. – The Adjudicator shall issue a Writ of Execution directing the BSP Sheriff to enforce the writ.

SECTION 2. ISSUANCE, CONTENTS, AND EFFECTIVITY OF THE WRIT OF EXECUTION - The writ of execution shall issue in the name of the Republic of the Philippines; signed by the Adjudicator, directing the BSP Sheriff to execute the decision or order; and must contain the complete name of the party, whether natural or juridical, against whom the writ of execution was issued, the dispositive portion thereof, the total amount to be collected from the losing party or any other person required by law to obey the same.

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 judgment shall become dormant, and a judgment 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.

SECTION 3. BSP SHERIFF'S RETURN AND REPORT - The writ of execution shall be returned by the BSP Sheriff to the Adjudicator immediately after the full satisfaction of the judgment award or within fifteen (15) days from receipt thereof if not fully satisfied. In case of partial satisfaction or non-satisfaction of the judgment, the BSP Sheriff shall submit a report informing the Adjudicator on the status of the enforcement thereof, not later than fifteen (15) days from receipt of such writ and every fifteen (15) days thereafter during the lifetime of the writ until the judgment is fully satisfied. The Adjudicator shall motu proprio issue an updated writ indicating the amount collected and the remaining balance.

SECTION 4. ENFORCEMENT OF WRIT OF EXECUTION - In executing a final decision or order, the BSP Sheriff shall serve a copy of the writ to the respondent within five (5) days from receipt of the same.

SECTION 5. EFFECT OF 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 is issued by the Court of Appeals.

RULE IX TRANSITORY PROVISION

SECTION 1. TRANSITORY PROVISION. These Rules shall be applied prospectively. The handling of all concerns and complaints on financial products or services which accrued and were filed after effectivity of the FCPA but prior to the effectivity of these Rules shall be governed by the existing financial consumer handling mechanism of the BSP at that time. Complaints that have undergone the CAM in place prior to the effectivity of these Rules shall no longer be required to undergo the CAM proceedings under these Rules should the complainant decide to proceed to mediation or adjudication after the effectivity of these Rules.

RULE X EFFECTIVITY AND SEPARABILITY CLAUSE

SECTION 1. SEPARABILITY CLAUSE. If any provision of these Rules of Procedure or any part hereof be declared invalid or unconstitutional, the remainder of these Rules or other provisions not otherwise affected shall remain valid and subsisting.

SECTION 2. EFFECTIVITY. These Rules shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.