



**BANGKO SENTRAL NG PILIPINAS**

OFFICE OF THE DEPUTY GOVERNOR  
SUPERVISION AND EXAMINATION SECTOR

**MEMORANDUM NO. M-2015 - 020**

**To : ALL BANKS AND OTHER BSP-SUPERVISED ENTITIES**

**Subject: On-site Consumer Protection Framework Assessment**

The Monetary Board, in its Resolution No. 691 dated 30 April 2014 and Resolution No. 831 dated 22 May 2014, approved to adopt the attached Rating System for purposes of assessing compliance with the Consumer Protection Framework (CPF).

The conduct of Periodic CPF Assessments shall commence one-year after the effectivity of Circular No. 857.

For information and guidance.

  
**NESTOR A. ESPENILLA JR.**  
Deputy Governor

08 April 2015

Att: A/S

## ON-SITE CONSUMER PROTECTION FRAMEWORK ASSESSMENT

In accordance with its supervisory function and authority, the Bangko Sentral ng Pilipinas (BSP) conducts On-Site Consumer Protection Assessment to monitor and evaluate the adherence and compliance of BSP-Supervised Financial Institutions (BSFI) with Circular 857<sup>1</sup>. This may be periodic or focused.

**1. Periodic Consumer Protection Framework Assessment.** This is conducted as a component of the overall risk evaluation of the BSFI, either as part of its periodic review or a separate special review. This allows the BSP to check the validity of the information analyzed during off-site surveillance and to learn about the BSFI's actual management and operational standards. This provides the BSP with a comprehensive review of the BSFIs' risk profile with regard to consumer issues, willingness, and commitment of the Board and Senior Management to address such issues, and its compliance with the BSP regulations on Consumer Protection as described above. Specifically, the objectives are to:

- a. Assess the BSFI's overall compliance with the BSP Regulations on Consumer Protection;
- b. Obtain information about activities and compliance systems or procedures; and
- c. Detect and assess risks to consumers and to markets for consumer financial products and services.

On-site assessments include visits to the BSFI's Head Office and may include visits to the branches. The information gathered during the off-site surveillance and the visit to the Head Office should be used to help determine whether and how many field visits are needed and to focus assessment on problem branches and issues and even third parties, such as outsourced service providers.

**1a. Key Documents and Information.** The key documents and information relevant to understanding the BSFI's ability to manage its responsibilities and risks to the consumers include, at a minimum, the following:

- a. Written policies and procedures related to the following:
  - i. Consumer Protection Risk Management Program
  - ii. Product Approval (evaluation of the product risk)
  - iii. Internal controls
  - iv. Loan recovery/collection
  - v. Consumer Assistance Mechanism
  - vi. Contracts and documents with outsourced service providers, as may be relevant
  - vii. Record retention and destruction timeframes
- b. Minutes of the Board Meetings;

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<sup>1</sup> BSP Regulations on Financial Consumer Protection

- c. Product Manuals;
- d. Advertising and marketing materials;
- e. Loan and deposit accounts, investments, derivatives, and structured product standard agreements or pro-forma documents/contracts;
- f. Client suitability assessment records;
- g. Management reports referring to consumer issues such as complaint handling and regulatory compliance on other consumer protection issues;
- h. Ops Risk reports maintained by the units and used by Risk Management Group in monitoring operational risk management system;
- i. Complaints database/statistics for a certain period maintained by both the BSFI and the BSP;
- j. Correspondence between the BSFI and BSP regarding compliance with financial consumer-related laws, rules and regulations;
- k. BSFI's Training Records
- l. BSFI's Code of Conduct and Industry Codes to which the BSFI have subscribed;
- m. Internal and external audit reports and management response;
- n. Reports from third-party sources such as industry associations;
- o. Other prudential reports (e.g., Reports on Crimes and Losses) and financial data (e.g., loan performance) that may help in identification of trends, growth, and problem areas; and
- p. Other sources of information for the public (e.g., website).

**1b. Primary Areas.** To carry out the Supervisory Program, the BSP shall look into, verify, and review the following primary areas:

- a. Consumer Protection Risk Management System
  - i. Board of Directors and Senior Management Oversight
  - ii. Compliance Program
  - iii. Policies and Procedures
  - iv. Trainings
  - v. Monitoring Procedures
  - vi. Complaint Response
  - vii. Audit Procedures
- b. Specific Target Areas
  - i. Product Development and Review
    - Product Design
    - Contract Terms, Fees, and Charges
  - ii. Product Distribution
    - Sales and Marketing
    - Incentives and Remuneration
  - iii. After Sales
    - Operational Efficiency and Customer Service
    - Redress Mechanism
  - iv. Personal Data Protection

**1c. Assessment Process and Technique.** As appropriate, the assessment process shall include the following:

- a. Collect and review available information from within and outside of BSP;
- b. Request and review supplementary documents and information from the BSFI to be assessed;
- c. Review reports from third-party sources to capture industry-wide trends on complaints and fraud. Evaluate how these data compare with those of the BSFI;
- d. Develop and obtain BSP internal approval for a preliminary risk focus and scope for the onsite assessment;
- e. Perform on-site assessment to observe, conduct interviews, and review additional documents and information;
- f. Discuss if the assessment process indicates potential violation of the Consumer Protection Standards or other violations of laws/regulations;
- g. Draw preliminary conclusions about the BSFI's compliance management and its statutory and regulatory compliance and assign the corresponding Consumer Protection Rating;
- h. Discuss about follow-up corrective actions that the BSFI should take, if warranted by findings;
- i. Draft the assessment report;
- j. Obtain appropriate internal review and approval for the assessment report;
- k. Share the draft report with the relevant supervision and examination department of the BSP and obtain and consider any comments they may offer; and
- l. After final internal clearance, finalize and transmit the report to the BSFI.

Examples of on-site assessment techniques are:

<b>Head Office</b>	<b>Branches</b>
<ul style="list-style-type: none"> <li>• Kick-off meeting with BSFI Board and Senior Management to review objectives of the examination and concerns resulting from off-site analysis, including any pending required action from previous examinations</li> </ul>	<ul style="list-style-type: none"> <li>• Structured interviews with branch staff to check their knowledge of corporate policies and understand their usual procedures for certain operations, such as loan applications</li> </ul>
<ul style="list-style-type: none"> <li>• Technical meeting with senior or middle management responsible for consumer issues</li> </ul>	<ul style="list-style-type: none"> <li>• Check compliance with disclosure requirements</li> </ul>
<ul style="list-style-type: none"> <li>• Structured interviews –               <ul style="list-style-type: none"> <li>✓ With internal auditors to discuss findings of off-site surveillance</li> <li>✓ With consumer assistance or front-line personnel to check knowledge of policies and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Mystery shopping to check practices against what are said and written by Head Office, including simulation of a consumer complaint, or a loan sale to check how and when information are</li> </ul>

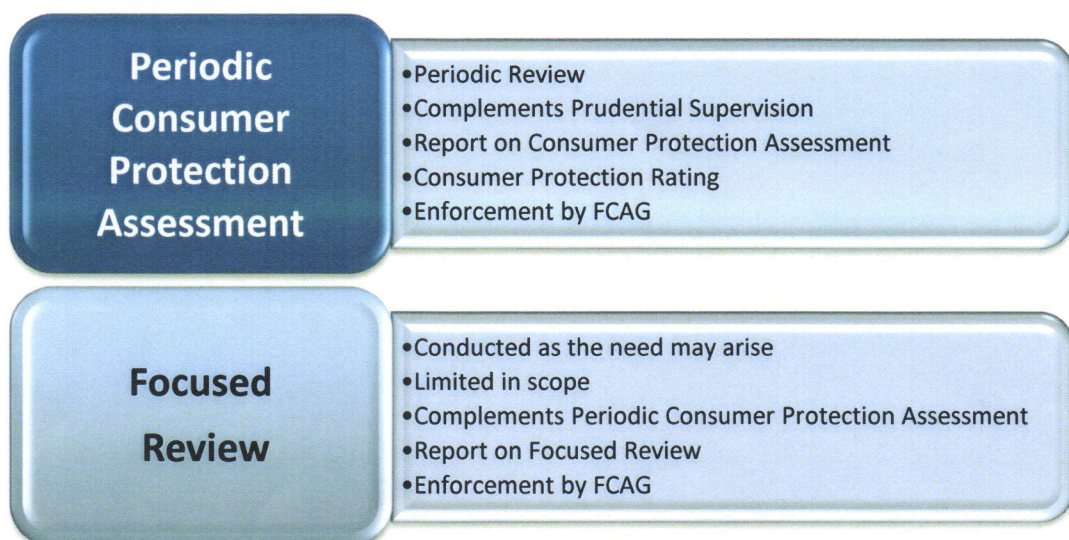
practices against policies ✓ With middle management responsible for generating relevant reports to the Board and Senior Management, to check how reports are produced including the information used to generate them	given and explained
• Selection of complaints sample to check consistency of the system and the procedures	
• Wrap-up meeting with Senior Management to discuss results of the on-site assessment.	

**Table No. 1. Samples of Assessment Techniques**

**2. Focused Review.** As the need arises, the BSP conducts a focused review on compliance with consumer protection. This will focus on a particular situation, such as when:

- a. There is a significant volume of particular customer complaints against a BSFI; or
- b. There is a reasonable ground to believe, based on submitted documents and initial evaluation that a violation of financial consumer protection laws and regulations implemented by BSP has been committed and is being committed by the BSFI and its personnel and such violation is deemed to adversely affect public interest.

Focused review is conducted if the BSFI's periodic assessment has just been concluded or if the next schedule will be made in three (3) months' time or later.



**Figure No. 1. BSP's Two-Pronged On-site Supervisory Tools**

- 3. Consumer Protection Rating System (CPRS).** The Consumer Protection Rating System (CPRS) is the means through which the BSP formally evaluates the compliance of the BSFIs with the BSP regulations on Consumer Protection. The Ratings reflect in a comprehensive and uniform fashion the nature and extent of the BSFI's adherence to the Consumer Protection Standards as prescribed by the BSP and its compliance with consumer protection laws, and rules and regulations. In addition to serving as a useful tool for summarizing the consumer protection position of individual institutions, the rating system also assists in assessing the aggregate consumer protection posture of the industry.

The CPRS is the result of the conduct of the periodic consumer protection assessment process. The BSFI is assigned a rating based upon the assessment of its consumer protection practices and processes that provides the highest standards of service to its clients and embraces a culture of fair and responsible dealings in the conduct of their business. The basis for assigning an overall consumer protection rating will cover the following essential components:

- a. Extent of adherence and compliance with the minimum prescribed Consumer Protection Standards for Disclosure and Transparency, Protection of Client Information, Fair Treatment, Effective Recourse, and Financial Education and Awareness; and with consumer protection laws, rules and regulations;
- b. Commitment of Board and Senior Management towards embedding consumer protection practices into the institutional culture and operations of the BSFI; and
- c. Adequacy of systems, including internal policies and procedures, controls and audit activities designed to ensure adherence to internal consumer protection policies and procedures and compliance on a routine and consistent basis.

The Rating System is based upon a scale of 1 through 4 in decreasing order of supervisory concern. Thus, "1" represents the lowest rating, most critically deficient level of performance and therefore the highest degree of supervisory concern, while "4" represents the highest rating and consequently the lowest level of supervisory concern. Each of the four (4) Ratings is described below:

#### **Rating 4 (Strong)**

The BSFI demonstrates "**strong**" consumer protection policies, practices and procedures commensurate to its size, complexity, and profile. The BSFI's clients can expect the highest service standards and fair and responsible dealings in their conduct of business. It strictly observes the BSP regulations on Consumer Protection that uphold protection of consumers, in the areas of transparency and disclosure, protection of client information, fair treatment, effective recourse, and financial education; and substantial compliance with consumer protection laws, rules and regulations. As such, the BSFI does not pose any risks of financial loss or harm,

arising from deficiencies in consumer protection practices, to its financial consumers.

The Board and Senior Management are capable and committed to ensure that appropriate policies and procedures for consumer protection are embedded in the BSFI's business operations. Staff are capable and exhibit the appropriate behavior and professional conduct in their dealings with customers. Thus, BSFI's customers are unlikely to experience unfair, deceptive or abusive acts or practices.

An effective CPRMS including an efficient system of internal control, audit and compliance program, appropriate to the scope and complexity of the BSFI's operations, is in place. If non-adherence to the prescribed minimum Consumer Protection Standards and violations of existing consumer protection laws, rules and regulations are noted, they relate to minor deficiencies in forms or practices that may be easily and promptly corrected by Management and are deemed not to have any material impact on financial consumers either in frequency or severity.

There is no cause for supervisory concern on the BSFI's over-all consumer protection policies, practices and procedures given a "strong" consumer protection rating.

### **Rating 3 (Acceptable)**

The BSFI demonstrates "**acceptable**" consumer protection policies, practices and procedures commensurate to its size, complexity, and profile. The rating indicates that the BSFI is largely effective in protecting financial consumers as shown in the conduct of dealings with their customers. The BSFI generally observes the BSP regulations on Consumer Protection such as, transparency and disclosure, protection of client information, fair treatment, effective recourse, and financial education; and consumer protection laws, rules and regulations. Although occasional lapses arise, the BSFI rarely pose any risks of financial loss or harm, arising from deficiencies in consumer protection practices, to its financial consumers.

The Board and Senior Management show ability and willingness to enforce appropriate policies and procedures which ensure consumer protection practices are embedded in the BSFI's business operations. Staff are capable and exhibit the appropriate behavior and professional conduct in dealings with customers. However, the BSFI's clients may experience inconvenience due to excusable management oversight, but not tantamount to unfair, deceptive, or abusive acts or practices.

A CPRMS appropriate to the scope and complexity of its operations is established to ensure adherence to the consumer protection policies and procedures and compliance with laws, rules and regulation. However, weaknesses in internal control, audit and compliance program and minimal violations have nonetheless occurred. These weaknesses and violations, impact of which is less severe and infrequent, involve technical aspect of the law or result from oversight of operating

personnel. Further modification and strengthening of the CPRMS are necessary to prevent financial loss or harm to financial consumer.

The rating of 3 warrants minimal supervisory concern on the BSFI's over-all consumer protection policies, practices, and procedures.

### **Rating 2 (Marginal)**

The BSFI demonstrates "**marginal**" consumer protection policies, practices and procedures. The BSFI lacks adherence to the BSP regulations on Consumer Protection in the areas of transparency and disclosure, protection of client information, fair treatment, effective recourse, and financial education; and has minimal compliance with consumer protection laws, rules and regulations.

The consumer protection policies, practices, and procedures show numerous weaknesses, breaches of Consumer Protection Standards, and violations indicative that the BSFI poses significant risks of financial loss or harm to financial consumers. An institutional culture of fair and responsible dealings with its customers is not completely demonstrated and BSFI's clients are likely to experience unfair, irresponsible and abusive conduct or practice from the BSFI.

The Board and Senior Management may have the ability to establish effective consumer protection policies and practices but increased efforts are necessary. The weaknesses, breaches of Consumer Protection Standards, and violations of consumer protection laws, rules and regulations are an indication that Management has not devoted sufficient time and attention to ensure that effective consumer protection policies, practices and procedures are in place. Generally, staff training on consumer protection practices, ethical behavior, and responsible business conduct needs further strengthening.

The CPRMS generally fails to identify, measure, monitor, and control significant risks of financial loss or harm to consumers in many material respects and needs significant improvement. Board and Senior Management, policies and procedures, internal control, audit and compliance program are proven inadequate and require strengthening. A number of significant risks have not been adequately addressed. The weaknesses and violations noted in the previous assessments are repeatedly committed and remain uncorrected.

The BSFI's marginal consumer protection performance needs improvement and warrants more than normal supervision. Such inadequacies and deficiencies, if not properly and immediately rectified could seriously do harm to financial consumers and would cause further deterioration of the BSFI's Consumer Protection Rating.

### **Rating 1 (Poor)**

The BSFI demonstrates "**poor**" consumer protection policies, practices and procedures. The BSFI significantly fails to adhere to the BSP regulations on



Consumer Protection in the areas of transparency and disclosure, protection of client information, fair treatment, effective recourse, and financial education; and non-compliance with consumer protection laws, rules and regulations.

The BSFI's inability and unwillingness to comply with the requisite Consumer Protection Standards as well as consumer protection laws, rules and regulation pose significant risks of financial loss or harm to consumers resulting to loss of consumer confidence in the financial market or system. An institutional culture of fair and responsible dealings with its customers is not demonstrated. The BSFI's clients are highly likely to experience unfair, irresponsible and abusive conduct or practices from the BSFI.

The Board and Senior Management appear unwilling and/or unable to establish effective consumer protection policies and practices. Their attitude indicates a lack of interest in administering an effective Consumer Protection Compliance Program that has contributed to the seriousness of the BSFI's poor consumer protection performance. Staff display unethical behavior and unprofessional conduct, thus require significant amount of training.

A CPRMS to identify, measure, monitor, and control significant risks of financial loss or harm to consumers is not in place. Board and Senior Management oversight, policies and procedures, internal control, audit and compliance program are ineffective and are seriously deficient. The weaknesses and violations noted in the previous assessments are repeatedly committed and remain uncorrected.

The above serious deficiencies, violations, and poor performance requires immediate and close supervisory attention and monitoring.