

1002 CONSUMER PROTECTION STANDARDS

The following consumer protection standards reflect the core principles, which BSFIs are expected to observe at all times in their dealings with financial consumers. These should be embedded into the corporate culture of the BSFI, enhancing further its defined governance framework while addressing conflicts that are inimical to the interests of the financial consumer.

Disclosure and transparency. BSFIs must take affirmative action to ensure that their consumers have a reasonable holistic understanding of the products and services, which they may be acquiring or availing. In this context, full disclosure and utmost transparency are the critical elements that empower the consumer to make informed financial decisions. This is made possible by providing the consumer with ready access to information that accurately represents the nature and structure of the product or service, its terms and conditions, as well as its fundamental benefits and risks.

The BSFI demonstrates the competencies required of this principle if it complies with the following:

a. *Key information*

- (1) Ensures that offering documents of products and services contain the information necessary for customers to be able to make an informed judgment of the product or service and, in particular, meet the full disclosure requirements specified under existing laws or regulations. All key features and risks of the products should be highlighted prominently in a succinct manner. Where a product is being offered on a continuous basis, its offering documents should be updated in accordance with the requirements set out in the regulations.
- (2) Readily and consistently makes available to the customer a written copy of the terms and conditions (T&C) that apply to a product or service. The contents of the T&C must be fully disclosed and explained to financial customers before initiating a transaction. Where and when warranted, reference to the T&C should be made while transacting with the consumer and before consummating the transaction, if such reference is material to the understanding of the consumer of the nature of the product or service, as well as its benefits and risks.

As a written document, the T&C must be complete but concise, easily understandable, accurate, and presented in a manner that facilitates the consumer's comprehension. The latter is taken to mean that the text of the document should be according to Sec. 312 (*Information to be disclosed*).

The T&C should include at least the following:

- (a) The full price or cost to the customer including all interest, fees, charges, and penalties. The T&C must clearly state whether interest, fees, charges, and penalties can change over time. The method for computing said interest, fees, charges, and penalties shall be presented in accordance with Sec. 305.
 - (b) General information about the operation of the products or services including the customer's obligations and liabilities;
 - (c) Cooling-off period, if applicable.
 - (d) Cancellation, return and exchange policies, and any related cost;
 - (e) The actions and remedies which the BSFI may take in the event of a default by the customer;
 - (f) Procedures to report unauthorized transactions and other contingencies, as well as the liabilities of parties in such case; and
 - (g) A summary of the BSFI's complaints handling procedure.
- (3) Advises customers to read and understand the applicable T&C, when considering a product or service.
- (4) Ensures that its staff communicates in such a manner that clients can understand the terms of the contract, their rights and obligations. Staff should communicate with techniques that address literacy limitations (e.g., materials are available in local language).
- (5) Provides customers adequate time to review the T&C of the product or service, asks questions and receives additional information prior to signing contracts or executing the transaction. The staff of the BSFI should be available to answer the questions and clarifications from the financial customer.
- (6) Ensures that staff assigned to deal directly with customers, or who prepare advertisement materials (or other material of the BSFI for external distribution) or who markets any product or service should be fully knowledgeable about these products and services, including statutory and regulatory requirements, and are able to explain the nuances to the consumer.
- (7) Uses a variety of communication channels to disclose clear and accurate information. Such communication channels should be available to the public without need for special access

requirements, which may entail additional expense. Communication channels should be sufficiently responsive to address the literacy limitations of the financial consumer. Said channels may be written and/or verbal as may be warranted.

- (8) Discloses pricing information in public domains (e.g., websites).
- (9) Updates customers with relevant information, free of charge in a clear, understandable, comprehensive, and transparent manner, for the duration of the contract. Such information covers the characteristics and the risks of the products sold by the BSFI and their authorized agents
- (10) Imparts targeted information to the specific groups of clients to whom specific products are being marketed, with a particular consideration for vulnerable customers. Communication channels employed for such targeted marketing initiatives may be accordingly calibrated.
- (11) Offers enhanced disclosure for more complex products, highlighting the costs and risks involved for the customer. For structured investment products, a Product Highlight Sheet (PHS) is required. The PHS should be clear, concise, and easily understandable by individual customers. It should contain information that empowers the customer to appreciate the key features of the product and its risks. It is prepared in a format that facilitates comparison with other products. The PHS should be available at no cost to the public and made available to consumers upon request. Before signing any contract, the BSFI should ensure that the customer has freely signed a statement to the effect that the customer has duly received, read, and understood the PHS.
- (12) Notifies the customer in writing of any change in:
 - (a) Interest rate to be paid or charged on any account of the customer as soon as possible; and
 - (b) A non-interest charge on any account of the customer within a number of days as provided under existing regulations prior to the effective date of the change. If the revised terms are not acceptable to the customer, he or she should have the right to exit the contract without penalty, provided such right is exercised within a reasonable period. The customer should be informed of this right whenever a notice of change is made.
- (13) Provides customers with a proof of the transaction immediately after the transaction has been completed. The customer should be given a hard copy of each of the documents signed by the clients (including, but not limited to the contract) with all terms and conditions. The

BSFI ensures that documents signed by the customer are completely filled and that there are no blank terms.

- (14) Regularly provides customers with clear and accurate information regarding their accounts (e.g., Statement of accounts that includes, among others, covering period, opening balance/value of transactions, all kinds of interest, fees and charges, closing balance, inquiries for outstanding balances, proof of payments for loans).
- (15) Informs customers of their rights and responsibilities including their right to complain and the manner of its submission.

b. Advertising and promotional materials

- (1) Ensures that advertising and marketing materials do not make false, misleading, or deceptive statements that may materially and/or adversely affect the decision of the customer to avail of a service or acquire a product.
- (2) Ensures that advertising and promotional materials are easily readable and understandable by the general public. It should disclose clear, accurate, updated, and relevant information about the product or service. It should be balanced/proportional (reflecting both advantages and risks of the product or service); visible/audible; key information is prominent and not obscured; print is of sufficient size and clearly legible.
- (3) Ensures that promotional materials are targeted according to the specific groups of consumers to whom products are marketed and the communication channels employed for marketing financial services.
- (4) Ensures that all advertising and promotional materials disclose the fact that it is a regulated entity and that the name and contact details of the regulator are indicated.

c. Conflict of interest

- (1) Discloses properly to the consumer prior to the execution of the transaction that the BSFI or its staff has an interest in a direct/cross transaction with a consumer.
- (2) Discloses the limited availability of products to consumers when the BSFI only recommends products which are issued by their related companies, particularly when commissions or rebates are the primary basis for recommending the particular product to consumers.

- (3) Discloses the basis on which the BSFI is remunerated at the pre-contractual stage.
- (4) Ensures that adequate systems and controls are in place to promptly identify issues and matters that may be detrimental to a customer's interest (e.g., cases in which advice may have been given merely to meet sales targets, or may be driven by financial or other incentives).

Protection of client information. Financial consumers have the right to expect that their financial transactions, as well as relevant personal information disclosed in the course of a transaction, are kept confidential. Towards this end, BSFIs must ensure that they have well-articulated information security guidelines, well-defined protocols, a secure database, and periodically re-validated procedures in handling the personal information of their financial consumers. This should be an end-to-end process that should cover, among others, the array of information that will be pre-identified and collected, the purpose of gathering each information, how these will be sourced from the client, the IT-security infrastructure of the BSFI, and the protocols for disclosure, both within the BSFI and especially to third parties.

The BSFI demonstrates the ability to protect client information if it is able to:

a. Confidentiality and security of client information

- (1) Have a written privacy policy to safeguard its customers' personal information. This policy should govern the gathering, processing, use, distribution, storage, and eventual disposal of client information. The BSFI should ensure that privacy policies and sanctions for violations are implemented and strictly enforced.
- (2) Ensure that privacy policies are regularly communicated throughout the organization. Opportunities include employees' initial training sessions, regular organization-wide training programs, employee handbooks, posters and posted signs, company intranet and internet websites, and brochures available to clients.
- (3) Have appropriate systems in place to protect the confidentiality and security of the personal data of its customers against any threat or hazard to the security or integrity of the information and against unauthorized access. This includes a written information security plan that describes its program to protect customer personal information. The plan must be appropriate to its size and complexity, nature and scope of its activities, and the sensitivity of customer information it handles. As part of its plan, the BSFI must:
 - (a) Designate employee accountable to coordinate its Information Security Program.

- (b) Identify and assess the risks to customer information in each relevant area of the BSFI operation, and evaluate the effectiveness of the current safeguards for controlling these risks.
 - (c) Design and implement a safeguards program, and regularly monitor and test it.
 - (d) Select service providers that can maintain appropriate safeguards.
 - (e) Evaluate and adjust the program in light of relevant circumstances, including changes in the firm's business or operations, or the results of security testing and monitoring.
- (4) Have appropriate policies and practices for employee management and training to assess and address the risks to customer information. These include:
- (a) Checking references and doing background checks before hiring employees who will have access to customer information.
 - (b) Asking new employees to sign an agreement to follow BSFI confidentiality and security standards for handling customer information.
 - (c) Limiting access to customer information to employees who have a business reason to see it.
 - (d) Controlling access to sensitive information by requiring employees to use "strong" passwords that must be changed on a regular basis.
 - (e) Using automatic time-out or log-off controls to lock employee computers after a period of inactivity.
 - (f) Training employees to take basic steps to maintain the security, confidentiality, and integrity of customer information. These may include locking rooms and file cabinets where records are kept; ensuring that employee passwords are not posted in work areas; encrypting sensitive customer information when transmitted electronically via public networks; referring calls or other requests for customer information to designated individuals who have been trained in how BSFI safeguards personal data; and reporting suspicious attempts to obtain customer information to designated personnel.
 - (g) Regularly reminding all employees of company policy to keep customer information secure and confidential.
 - (h) Imposing strong disciplinary measures for security policy violations.

- (i) Preventing terminated employees from accessing customer information by immediately deactivating their passwords and user names and taking other measures.
- (5) Have a strong IT System in place to protect the confidentiality, security, accuracy, and integrity of customer's personal information. This includes network and software design, and information processing, storage, transmission, retrieval, and disposal. Maintaining security throughout the life-cycle of customer information, from data entry to disposal, includes:
 - (a) Knowing where sensitive customer information is stored and storing it securely. Make sure only authorized employees have access.
 - (b) Taking steps to ensure the secure transmission of customer information.
 - (c) Disposing customer information in a secure way.
 - (d) Maintaining up-to-date and appropriate programs and controls to prevent unauthorized access.
 - (e) Using appropriate oversight or audit procedures to detect the improper disclosure or theft of customer information.
 - (f) Having a security breach response plan in the event the BSFI experiences a data breach.

b. Sharing of customer information

- (1) Inform its customers in writing and explain clearly to customers as to how it will use and share the customer's personal information.
- (2) Obtain the customers' written consent, unless in situations allowed as an exception by law or BSP-issued regulations on confidentiality of customer's information, before sharing customers' personal information with third parties such as credit bureau, collection agencies, marketing and promotional partners, and other relevant external parties.
- (3) Provide access to customers to the information shared and should allow customers to challenge the accuracy and completeness of the information and have these amended as appropriate.
- (4) Appropriate penalties should be imposed by the BSFI to erring employees for exposing or revealing client data to third parties without prior written consent from client.

Fair treatment. Fair treatment ensures that financial consumers are treated fairly, honestly, professionally and are not sold inappropriate and harmful financial products and services. BSFIs should ensure they have the necessary resources and procedures in place, internal monitoring, and control mechanisms, for safeguarding the best interest of their customers. These include general rules, such as

those addressing ethical staff behavior, acceptable selling practices as well as regulating products and practices where customers are more likely to be offered services that are inappropriate for their circumstances.

The BSFI demonstrates the principle of fair treatment towards financial consumers if it is able to:

a. *Affordability and suitability of product or service*

(1) When making a recommendation to a consumer:

(a) Gather, file, and record sufficient information from the customer to enable the BSFI to offer an appropriate product or service to the customer. The information gathered should be commensurate to the nature and complexity of the product or service either being proposed to or sought by the customer and should enable the BSFI to provide an appropriate level of professional service. As a minimum, information includes the customers' financial knowledge and experience, financial capabilities, investment objectives, time horizons, needs, priorities, risk affordability, and risk profile.

(b) Offer products or services that are in line with the needs/risk profile of the consumer. The BSFI should provide for and allow the customer to choose from a range of available products and services that can meet his needs and requirements. Sufficient and right information on the product or service should enable the customer to select the most suitable and affordable product or service.

(2) Inform or warn the customers that if they do not provide sufficient information regarding their financial knowledge and experience, the BSFI is not in a position to accurately determine whether the product or service is appropriate to them, given the limited information available. This information or warning may be provided in a standardized format.

(3) Ensure that the customer certifies in writing the accuracy of the personal information provided.

(4) Ensure to offer market-based pricing.

(5) Design products that are appropriate to the varying needs and interests of different types of consumers, particularly the more vulnerable consumers. Adequate product approval should be in place. Processes should be proper to ensure that products and services are fit for the targeted consumer.

- (6) Do not engage in abusive or deceptive acts or practices.
- (7) Seek customer feedback for product design and delivery and use this feedback to enhance product development and improve existing products. Likewise, investigate reasons for client drop out.
- (8) Do not use high pressure/aggressive sales techniques and do not force clients to sign contracts.
- (9) Have a system in place for approval when selling high-risk instruments to consumers.

b. *Prevention of over-indebtedness*

- (1) Have appropriate policies for good repayment capacity analysis. The loan approval does not rely solely on guarantees (co-signers or collateral) as a substitute for good capacity analysis.
- (2) Properly assess the creditworthiness and conduct appropriate client repayment capacity analysis when offering a new credit product or service significantly increasing the amount of debt assumed by the customer.
- (3) Ensure to have an appropriate system in place for credit analysis and decisions including appropriate criteria to limit the amount of credit.
- (4) Monitor enforcement of policies to prevent over-indebtedness. The board and senior management of the BSFIs should be aware of and concerned about the risks of over-indebtedness of its customers.
- (5) Draw the customer's attention to the consequences of signing a contract that may affect his financial position and his collateral in case of default in payment of a loan/ obligation.
- (6) Prepare and submit appropriate reports (e.g., loan quality, write-offs, restructured loans) to management.
- (7) Ensure that corrective measures are in place for poor long-term quality of loan portfolio linked to over-indebtedness.
- (8) Have specific procedures to actively work out solutions (i.e., through workout plan) for restructured loans/ refinancing/writing-off on exceptional basis for clients in default who have the "willingness" but without the capacity to repay, prior to seizing the assets.

c. Cooling-off period

- (1) As may be appropriate, provide the customer with a “cooling-off” period of a reasonable number of days [at least two (2) banking days] immediately following the signing of any agreement or contract, particularly for financial products or services with a long-term savings component or those subject to high pressure sales contract.

Cooling-off shall be applicable to a customer who is a natural person and to financial instruments whose remaining term is equal to or beyond one (1) year.

- (2) Permit the customer to cancel the agreement without penalty to the customer of any kind on his or her written notice to the BSFI during the cooling-off period. The BSFI may however collect or recover reasonable amount of processing fees. It is further recognized that there may be a need for some qualification to an automatic right of cooling off. For example, the right shall not apply where there has been a drawdown of a credit facility and a BSFI shall be able to recover any loss arising from an early withdrawal of a fixed rate term deposit which loss arises because of a difference in interest rates. This would be in addition to any reasonable administrative fees associated with closure of the term deposit.

d. Objectivity

- (1) Deal fairly, honestly, and in good faith with customers and avoid making statements that are untrue or omitting information which are necessary to prevent the statement from being false or misleading.
- (2) Present a balanced view when selling a product or service. While the BSFI highlights the advantages of a product/service, the customer’s attention should also be drawn to its disadvantages and downside risks
- (3) Ensure that recommendations made to customer are clearly justified and explained to the customer and are properly documented. If the requested products are of higher risk rating than a customer’s risk tolerance assessment results, the BSFI should draw to the customer’s attention that the product may not be suitable for him in view of the risk mismatch. In such instances, there should be a written disclosure of consequences which is accepted by the client.
- (4) Ensure that the customer’s suitability and affordability are assessed against specific risks of the investment products:

- (a) Financial Needs Analysis (FNA) and Client Suitability - to assess the customer's risk profile and suitability of the product.
- (b) Customer's Declaration Form - to confirm his acceptance and understanding of the highlighted features of the product.
- (c) FNA, Client Suitability and Declaration Form should be duly completed to make sure that the product sold is suitable and affordable for the customer.

e. *Institutional culture of fair and responsible treatment of clients*

- (1) There should be a Code of Conduct (Code) applicable to all staff, spelling out the organizational values and standards of professional conduct that uphold protection of customers. This Code should be reviewed and approved by the Board. The staff signs a document by which they acknowledge that they will abide by the Code and not engage in the behaviors prohibited as provided for in the Code. To ensure adherence to the Code, the BSFI is required to implement measures to determine whether the principles of consumer protection are observed, the clients' concerns are appropriately addressed and problems are resolved in a timely manner. These may include among others, the regular conduct of customer satisfaction survey.
- (2) Ensure that recruitment and training policies are aligned around fair and responsible treatment of clients.
- (3) Ensure that staff, specifically those who interact directly with customers, receive adequate training suitable for the complexity of the products or services they sell.
- (4) Ensure that collection practices are covered during the initial training of all staff involved in collections (loan officers, collections staff, and branch managers). In particular, collection staff should receive training in acceptable debt collection practices and loan recovery procedures.
- (5) Strictly comply with Bangko Sentral's existing regulation on what constitutes unfair debt collection practices. The BSFI's Code of Conduct should clearly spell out the specific standards of professional conduct that are expected of all staff involved in collection (including outsourced staff).
- (6) Institute policy that guarantees that clients receive a fair price for any foreclosed assets and has procedures to ensure that collateral seizing is respectful of clients' rights.
- (7) Ensure that managers and supervisors review ethical behavior, professional conduct, and

quality of interaction with customers as part of staff performance evaluations.

- (8) Have a system or internal processes in place to detect and respond to customer mistreatment as well as serious infractions. In case of violation of Code of Conduct (e.g., harassment), sanctions shall be enforced.
- (9) Inform staff of penalties for non-compliance with Code of Conduct.
- (10) Perform appropriate due diligence before selecting the authorized agents/ outsourced parties (such as taking into account the agents' integrity, professionalism, financial soundness, operational capability and capacity, and compatibility with the FI's corporate culture) and implement controls to monitor the agents' performance on a continuous basis. The BSFI retains ultimate accountability for outsourced activities.
- (11) Disseminate the main aspect of the Code of Conduct to clients through printed media or other appropriate means.

f. Remuneration structure

- (1) Design remuneration structure for staff of BSFI and authorized agents in a manner that encourages responsible business conduct, fair treatment and avoidance/mitigation of conflicts of interest.
- (2) Disclose to the customers the remuneration structure where appropriate, such as when potential conflicts of interest cannot be managed or avoided.
- (3) Ensure adequate procedures and controls so that sales staff are not remunerated based solely on sales performance but that other factors, including customer's satisfaction (in terms of number of customer complaints served/settled) and compliance with regulatory requirements, best practices guidelines, and Code of Conduct in which certain principles are related to best interest of customers, satisfactory audit/compliance review results and complaint investigation results, are taken into account.

Effective recourse. Financial consumers should be provided with accessible, affordable, independent, fair, accountable, timely, and efficient means for resolving complaints with their financial transactions. BSFIs should have in place mechanisms for complaint handling and redress.

The BSFI demonstrates the ability to provide effective recourse if it is able to:

- a. Establish an effective Consumer Assistance Management System (CAMS). *Appendix 115* provides for the minimum requirements of an effective CAMS.
- b. Develop internal policies and practices, including time for processing, complaint response, and customer access.
- c. Maintain an up-to-date log and records of all complaints from customers subject to the complaints procedure.
 - (1) Details of each complaint;
 - (2) The date the complaint was received;
 - (3) A summary of the BSFI's response;
 - (4) Details of any other relevant correspondence or records;
 - (5) The action taken to resolve each complaint; and
 - (6) The date the complaint was resolved.
- d. Ensure that information on how to make a complaint is clearly visible in the BSFI's premises and on their websites.
- e. Undertake an analysis of the patterns of complaints from customers on a regular basis including investigating whether complaints indicate an isolated issue or a more widespread issue for consumers. This analysis of consumer complaints must be escalated to the BSFI's compliance/risk management function and senior management.
- f. Provide for adequate resources to handle financial consumer complaints efficiently and effectively. Staff handling complaints should have appropriate experience, knowledge, and expertise. Depending on the BSFI's size and complexity of operation, a senior staff member should be appointed to be in charge of the complaint handling process.

Financial education and awareness. Financial education initiatives give consumers the knowledge, skills, and confidence to understand and evaluate the information they receive and empower them to make informed financial decisions. Because BSFIs deal directly with financial consumers, they have the reach, expertise, and established relationships necessary to deliver financial education. Financial education should be integral to the good governance of the BSFIs.

The BSFI demonstrates this principle through various means and in particular:

- a. Have a clear and defined financial education and awareness program as part of a wider financial consumer protection and education strategy and corporate governance. It is an integral

component of the BSFI's ongoing interaction and relationship with clients. Dedicated and adequate resources should be provided for the financial education initiatives.

- b. Develop financial education and awareness programs, either on their own or in partnership or collaboration with industry associations, which contribute to the improvement of their clients' knowledge and understanding of their rights and responsibilities, basic information and risks of financial products and services, and ability to make informed financial decisions and participate in economic activities. Financial education programs should be designed to meet the needs and financial literacy level of target audiences, as well as those that will reflect how target audience prefers to receive financial information. These may include:
 - (1) Delivering public awareness campaigns and information resources that would teach consumers on certain aspects of their financial lives particularly, budgeting, financial planning, saving, investing, borrowing, retirement planning, and self- protection against fraud.
 - (2) Developing financial education tools or information materials that are updated and readily understood and transparent such as customized advice and guidance (face to face training); printed brochures, flyers, posters, training videos (e.g., about money management, debt management, saving), and newsletters; websites, and interactive calculators that deliver key messages and "call to action" concerning better money management (e.g., protect your money, know your product, read and understand the T&C, check your statements, pay credit card bills on time, safeguard your Personal Identification Number, understand fees and charges) and consumer responsibility to ask the right questions.
 - (3) Distributing to customers, at the point of sale, a pamphlet on questions, which customers need to ask before accepting a financial product or service.
- c. Clearly distinguish between financial education from commercial advice. Any financial advice for business purposes should be transparent. Disclose clearly any commercial nature where it is also being promoted as a financial education initiative. It should train staff on financial education and develop codes of conduct for the provision of general advice about investments and borrowings, not linked to the supply of a specific product.
- d. Provide via the internet or through printed publications unbiased and independent information to consumers through comparative information about the price and other key features, benefits and risks, and associated fees and charges of products and services.
- e. Regularly track, monitor, and assess campaigns and programs and use the results of the

evaluation for continuous improvement.

(Circular Nos. 1003 dated 16 May 2018, 930 dated 18 November 2016, 898 dated 14 January 2016, 890 dated 02 November 2015, and 857 dated 21 November 2014)