Securities and Exchange Commission
PHILIPPINES

SEC Memorandum Circular No. 18
Series of 2019

To	:	**ALL FINANCING AND LENDING COMPANIES**
SUBJECT	:	**PROHIBITION ON UNFAIR DEBT COLLECTION PRACTICES OF FINANCING COMPANIES (FC) AND LENDING COMPANIES (LC)**
DATE	:	**19 AUGUST 2019**

WHEREAS, the Commission has been receiving numerous complaints against Financing Companies (FCs) and Lending Companies (LCs) that allegedly harass borrowers and employ abusive, unethical, and unfair means to collect debts;

WHEREAS, the Commission is aware of the practice of FCs and LCs of purposefully engaging the services of third party service providers (TPSPs) in their efforts to avoid liability for client harassment, by invoking the latter's separate juridical personality;

WHEREAS, the Commission exercises regulatory and supervisory authority over FCs and LCs by virtue of Republic Act No. 8556, or the Financing Company Act of 1998, as amended, and Republic Act No. 9474 or the Lending Company Regulation Act of 2007;

IN VIEW OF THE FOREGOING, without limiting the general application of the foregoing and without prejudice to the application of the New Civil Code, Revised Penal Code, Revised Corporation Code of the Philippines, Data Privacy Act, and other applicable laws and regulations, the Commission hereby issues this Memorandum Circular.

SEC. 1. Unfair Collection Practices. – FCs, LCs, and TPSPs hired by them may resort to all reasonable and legally permissible means to collect amounts due them under the loan agreement, provided that, in the exercise of their rights and performance of their duties, they must observe good faith and reasonable conduct and refrain from engaging in unscrupulous and untoward acts. Without limiting the general application of the foregoing, the following conduct shall constitute unfair collection practices, which shall be subject to the penalties provided herein:

a. The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person;

b. The use of threats to take any action that cannot legally be taken;

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c. The use of obscenities, insults, or profane language the natural consequence of which is to abuse the borrower and/or which amount to a criminal act or offense under applicable laws;

d. Disclosure or publication of the names and other personal information of borrowers who allegedly refuse to pay debts, except as may be allowed under Section 2 hereof;

e. Communicating or threatening to communicate to any person loan information, which is known, or which should be known, to be false, including the failure to communicate that the debt is being disputed, except as may be allowed under Section 2 hereof;

f. The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a borrower; and

g. Making contact at unreasonable/inconvenient times or hours, which shall be defined as contact before 6:00 A.M. or after 10:00 P.M., unless the account is past due for more than fifteen (15) days, or the borrower has given express consent that the said times are the only reasonable or convenient opportunities for contact.

Such consent which shall be evidenced by written, electronic or recorded means, may be given prior to, during, or after the execution of the loan agreement.

h. Notwithstanding the borrower's consent, contacting the persons in the borrower's contact list other than those who were named as guarantors or co-makers shall also constitute unfair debt collection practice.

SEC. 2. Confidentiality of Information. – For purposes of collection, FCs and LCs shall keep strictly confidential the data on the borrower, except under the following circumstances:

a. Disclosure of information with the written or recorded consent of the borrower;

b. Release, submission or exchange of customer information with other financial institutions, credit information bureaus, lenders (potential or actual), their agents and/or representatives;

c. Upon orders of a court of competent jurisdiction or any government office or agency authorized by law;

d. Disclosure to collection agencies, counsels and other agents of the FCs and LCs to enforce the latter's rights against the borrower;

e. Disclosure to third party service providers solely for the purpose of assisting or rendering services to the FCs and LCs in the administration of its lending or financing business; and

f. Disclosure to third parties such as insurance companies, solely for the purpose of insuring the FCs and LCs from borrower default or other credit loss, and the borrower from fraud or unauthorized charges.

SEC. 3. Outsourcing of Collection. – FCs and LCs may outsource the conduct of collection to a TPSP which shall be regarded as agent of the FCs and LCs. The ultimate responsibility for collection practices and compliance with this Circular remain with the FCs and LCs.

SEC. 4. Handling of Collection Accounts and Customer Service. – FCs and LCs shall adopt policies and procedures to require personnel handling the collection of accounts, whether these are in-house collectors or TPSPs, to disclose his/her full name or true identity to the borrower.

FCs and LCs shall also establish a Customer Service Department/Unit or designate personnel who shall be responsible for promptly addressing complaints, questions and concerns of borrowers. The President/Chief Executive and Compliance Officer of FCs and LCs shall submit, within thirty (30) days from effectivity of this Circular, a sworn certification stating the company's compliance with the provisions of this section.

SEC. 5. Applicable Penalties. – Violation of this Circular shall subject FCs and LCs to the following penalties:

	LCs	**FCs**
First Offense:	₱25,000.00	₱50,000.00
Second Offense:	₱50,000.00	₱100,000.00
Third Offense:	Subject to the facts, circumstances and gravity of the offense, the Commission, at its discretion, may impose a Fine of not less than twice the fine for the second offense but not more than P1 Million (1,000,000) Pesos; or Suspension of lending and financing activities for a period of sixty (60) days; or Revocation of Certificate of Authority to operate as a Financing or Lending Company, as appropriate for each circumstance. The computation for the progression of offenses shall lapse every three (3) years from the last order of payment.	

With respect to Section 1, the number of violations shall be determined on a per loan transaction per complainant basis. Hence, individual circumstances of unfair collection shall not be counted separately against the FC/LC if the same pertain to the same loan of the same complainant with the same FC/LC.

The foregoing penalties shall be without prejudice to any other penalties that may be imposed by the Commission pursuant to Presidential Decree No. 902-A, Republic Act No. 11232, otherwise known as the Revised Corporation Code of the Philippines, and all other relevant laws, rules and regulations being implemented by the Commission, which may include the suspension or revocation of the FC/LC's primary license and/or disqualification of its directors and officers; and further, to the penalties that may be imposed by the courts or other government agencies in the exercise of their respective mandates.

This Circular shall take effect fifteen (15) days after publication in two (2) national newspapers of general circulation.

Pasay City, Philippines. 20 August 2019

For the Commission:

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Chairperson