SEC MEMORANDUM CIRCULAR NO. 3
Series of 2022

TO	:	**FINANCING COMPANIES AND LENDING COMPANIES**
SUBJECT	:	**IMPLEMENTATION OF BANGKO SENTRAL NG PILIPINAS CIRCULAR NO. 1133 SERIES OF 2021 ON THE CEILING/S ON INTEREST RATES AND OTHER FEES CHARGED BY LENDING COMPANIES, FINANCING COMPANIES, AND THEIR ONLINE LENDING PLATFORMS**

WHEREAS, the Securities and Exchange Commission (SEC, or Commission) exercises regulatory and supervisory authority over financing companies (FCs) and lending companies (LCs), pursuant to Republic Act No. 8556, or the Financing Company Act of 1998 (FCA), and Republic Act No. 9474, or the Lending Company Regulation Act of 2007 (LCRA);

WHEREAS, the Commission is mandated to carry out the State's policy under the FCA and the LCRA to, among others, regulate the establishment of FCs and LCs to place their operation on a sound, efficient and stable condition to derive the optimum advantages from them as an additional source of credit; and to prevent and mitigate, as far as practicable, practices prejudicial to public interest[1];

WHEREAS, the Commission is aware that several FCs and LCs, especially those that operate Online Lending Platforms (OLPs), impose exorbitant interest rate, fees, and charges on their unsecured, short-term, small value, and high-cost consumer credit, thereby causing Filipinos, specifically those in the low-income bracket, to fall into debt traps;

WHEREAS, Section 5 of the FCA and Section 7 of the LCRA empower the Monetary Board of the Bangko Sentral ng Pilipinas (BSP) to prescribe maximum interest rates that could be charged by FCs and LCs, in consultation with the Commission and the industry, if warranted by prevailing economic and social conditions;

WHEREAS, after conducting the necessary studies and careful evaluation of the market in coordination with the Commission and the industry, the BSP issued BSP Circular No. 1133, Series of 2021 on the Ceiling/s on Interest Rates and Other Fees Charged by Lending Companies, Financing Companies, and their Online Lending Platforms (BSP Circular No. 1133);

WHEREAS, the Commission was tasked to formulate and promulgate the necessary issuance providing for the rules and regulations implementing the provisions of BSP Circular No. 1133;

WHEREFORE, IN VIEW OF THE FOREGOING, the Commission hereby issues this Circular to implement BSP Circular No. 1133.

SECTION 1. Applicability and Coverage. – This Circular shall apply to unsecured, general-purpose loans offered by LCs, FCs, and their OLPs, that do not exceed the amount of P10,000.00 and loan tenor of up to four (4) months that are entered into, restructured, or renewed beginning 3 March 2022.

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[1] Section 2, FCA; Section 2, LCRA

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This Circular applies to the aforementioned loans whether obtained through online or traditional/offline distribution channels.

In addition, the SEC shall have the powers/rights to sanction FCs, LCs, and their OLPs, which will be found to circumvent the merits of BSP Circular No. 1133 and this Memorandum Circular.

SECTION 2. Definition of Terms. – For purposes of this Circular, the following definitions shall apply:

a. *Financing Company* (*FC*) shall refer to a corporation primarily organized for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises (1) by direct lending or by discounting or by factoring commercial papers or accounts receivable; (2) by buying and selling contracts, leases, chattel mortgages, or other evidence of indebtedness; or (3) by financial leasing of movables as well as immovable property. It does not include banks, investment houses, savings and loan associations, insurance companies, cooperatives, and other financial institutions organized or operating under other special laws.
b. *Lending Company* (*LC*) shall refer to a corporation engaged in granting loans from its own capital funds or from funds sourced from not more than nineteen (19) persons. It shall not be deemed to include banking institutions, investment houses, savings and loan associations, financing companies, pawnshops, insurance companies, cooperatives, and other credit institutions already regulated by law. The term shall be synonymous with lending investors.
c. *Online Lending Platform* (*OLP*) shall refer to mobile lending applications, websites, and other financial technology (FinTech)-enabled programs or systems where the services and products of FCs and LCs are made available.[2]
d. *Nominal Interest Rate* refers to the contractual rate or the price paid for the use of money and is expressed as a percentage of the total amount borrowed without considering other fees and charges.
e. *Effective Interest Rate (EIR)* refers to the total nominal interest paid plus other fees and charges, excluding penalty and late payment fees, expressed as the rate that exactly discounts estimated future cash flows throughout the life of the loan to the net amount of loan proceeds. It shall follow the calculation models implemented in the Truth in Lending Act.[3]
f. *Unsecured loans* shall refer to loans that do not require any collateral or guarantee.
g. *General-purpose loans* shall refer to loans where the proceeds can be used for any type of expenses. These expenses may include, but are not limited to, payment of bills, purchase of appliances or gadgets and other similar expenses for personal consumption or small business needs.
h. Loans covered by the ceiling shall refer to unsecured general-purpose loans offered by LCs, FCs, and their OLPs that do not exceed the amount of P10,000.00 and a loan tenor of up to four (4) months, whether obtained online or through traditional/offline distribution channels.
i. *Other fees and charges* shall refer to additional fees, imposed on top of the nominal interest charges. Examples of these are processing fees, service fees, notarial fees, origination fees, transfer charges, documentary stamp tax, and disbursement fees, among others, but excluding fees and penalties for late payment and non-payment.
j. *Penalties* shall refer to the fees imposed by LCs, FCs, and their OLPs in case the borrower defaults payment on or pays an amount less than the scheduled due amount.
k. *Loan tenor* refers to the length of time to repay the principal loan amount with total interest and other fees and charges.

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2 As defined in SEC Memorandum Circular No. 10 series of 2021, "Moratorium on New Online Lending Platforms" dated 02 November 2021. Financial technology (Fintech) refers to the integration of technology into offerings by financial services companies to improve their use and delivery to consumers.

3 Republic Act No. 3765, also known as "Truth in Lending Act", is a policy to protect Filipinos from lack of awareness of the true cost of borrowing by assuring full disclosure of such cost. The calculation model, for guidance, was provided by the BSP in Memorandum No. 2011-040 relative to the implementation of Circular No. 730 dated 20 July 2011 on Updating Rules Implementing the Truth in Lending Act to Enhance Loan Transaction Transparency.

SECTION 3. Applicable ceiling/s on interest rates and other fees for specific loans offered by LCs, FCs, and their OLPs. – Pursuant to Section 1 of BSP Circular No. 1133, the following applicable ceiling/s on interest rates, and other fees are imposed for the covered loans:

1. A Nominal Interest Rate ceiling equivalent to 6 percent per month (~0.2 percent per day).

2. An EIR ceiling equivalent to 15 percent per month (~0.5 percent per day), which shall include the Nominal Interest Rate along with all other applicable fees and charges (i.e., processing fees, service fees, notarial fees, handling fees and verification fees, among others), but excluding fees and penalties for late payment and non-payment.

3. A cap on penalties for late payment or non-payment at 5 percent per month on outstanding scheduled amount due.

4. A total cost cap of 100 percent of total amount borrowed (applying to all interest, other fees and charges, and penalties) regardless of time the loan has been outstanding.

SECTION 4. Impact Evaluation Report. - All FCs and LCs, whether or not offering loans covered by the ceiling, shall submit an Impact Evaluation Report on or before 15 January each year beginning 2023 using the form that shall be prescribed by the Commission on the SEC website.

SECTION 5. Other Requirements. – The Commission shall require all LCs and FCs, whether or not offering loans covered by the ceiling, to submit a Business Plan indicating the company's loan products and services as well as the applicable pricing parameters, which must be compliant with Section 3 of this Circular.

The Business Plan shall be submitted on or before 5 May 2022 in portable document format (pdf) with text layer to cgfd_md@sec.gov.ph with the following subject line: *CGFD_Complete Name of the Company_Type of Document_Date Submitted*.

The Business Plan submitted under this Section shall supersede the initial Business Plan or Plan of Operation in the Company Information Sheet submitted to the Commission prior to the issuance of the Certificate of Authority of the LC/FC.

The Commission may require LCs and FCs to submit additional forms or documents in support of the submitted Business Plan.

In case of amendments to the Business Plan, the LCs and FCs must submit an amended Business Plan, underlining the changes therein. The LCs and FCs must secure the prior approval of the Commission before they can implement the material change to the Business Plan.

FCs and LCs that will be incorporated subsequent to the effectivity of this Circular shall submit the Business Plan within sixty (60) days from the date of issuance of their Certificate of Authority to Operate as a Financing/Lending Company (CA).

In addition to the requirements stated in this Circular, FCs and LCs that utilize OLPs shall comply with other requirements as may be provided for under a separate circular.

SECTION 6. Administrative Sanctions. – Non-compliance with this Circular shall subject the FCs and LCs to the following penalties:

A. Non-compliance with Section 3

Frequency	FCs	LCs
First Offense	₱50,000.00	₱25,000.00
Second Offense	₱100,000.00	₱50,000.00
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 penalty for the second offense but not more than One Million Pesos (₱1,000,000.00); and/or Suspension of financing and lending activities for a period of sixty (60) days; and/or Revocation of the CA, as appropriate for each circumstance. Depending on the gravity of the offense, the Commission may also proceed with the suspension or revocation of the company's primary registration.	

B. Non-compliance with Section 4

Frequency	FCs	LCs
First Offense	₱10,000.00 plus ₱200.00 daily penalty	₱10,000.00 plus ₱100.00 daily penalty
Second Offense	Suspension of CA	
Third Offense	Revocation of CA	

FCs and LCs who fail to submit the Impact Evaluation Report within the prescribed time, but who do not offer loans covered by the ceiling, shall only be subject to monetary penalties equivalent to the First Offense above-stated.

C. Non-compliance with Section 5

Violation	FCs	LCs
Late submission of Business Plan	₱10,000.00 plus ₱200.00 daily penalty	₱10,000.00 plus ₱100.00 daily penalty
Non-submission of Business Plan Implementing Amended Business Plan without prior approval of the Commission	Suspension or Revocation of CA	

The foregoing penalties shall be imposed without prejudice to the Commission's exercise of any and all of its powers, including but not limited to, its visitorial powers to ensure compliance with this Circular 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 disqualification of the directors and officers of the erring FCs, LCs, and their OLPs; and further, to the penalties that may be imposed by any courts or other government agencies in the exercise of their respective mandates and jurisdictions.

SECTION 7. Effectivity. - This Circular shall take effect on 3 March 2022.

Pasay City, Philippines. 1 March 2022.

For the Commission:

EMILIO B. AQUINO
Chairperson