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SEC PROPOSES CEILING ON INTEREST, OTHER CHARGES IMPOSED BY LENDING AND FINANCING COMPANIES

The Securities and Exchange Commission (SEC) has requested the Bangko Sentral ng Pilipinas (BSP) to consider capping the interest rates and other fees that lending and financing companies may charge on consumer and payday loans.

In an October 8 letter to BSP Governor Benjamin E. Diokno, SEC Chairperson Emilio B. Aquino cited the power of the central bank’s Monetary Board to prescribe the maximum interest rates, fees and other charges that lending companies (LCs) and financing companies (FCs) may impose.

Section 7 of Republic Act No. 9474, or the Lending Company Regulation Act of 2007, allows LCs to grant loans in amounts and reasonable rates and charges as may be agreed upon with borrowers.

The same provision, however, provides that the central bank’s Monetary Board, in consultation with the SEC and the industry, may prescribe such interest rate as may be warranted by prevailing economic and social conditions.

Section 5 of Republic Act No. 8556, or the Financing Company Act of 1998, likewise empowers the Monetary Board, in consultation with FCs and the SEC, to prescribe the maximum rate or rates of purchase discounts, lease rentals, fees, service and other charges of FCs.

At present, a lending or financing company can freely agree with a borrower on the terms and conditions of their loan contract, including the imposable interest rate and other charges such as transaction fees and penalties for late payment, in view of Central Bank of the Philippines Circular No. 902-82.

The circular, issued by the Monetary Board in 1982, suspended the country’s usury law under Act No. 2655.

“The rate of interest, including commissions, premiums, fees and other charges, on a loan or forbearance of any money, goods, or credits, regardless of maturity and whether secured or unsecured, that may be charged or collected by any person, whether natural or juridical, shall not be subject to any ceiling prescribed under or pursuant to the Usury Law, as amended,” the circular read.
In making the case for the regulation of interest rates imposed by lending and financing companies, Mr. Aquino noted that other countries in Asia such as Japan, Thailand and Myanmar enforce interest rate caps on consumer loans.

Mr. Aquino also cited the case of the United States, where regulations on interest rates vary across states. For instance, annual interest rates on payday loans are capped at 25% in New York, 30% in New Jersey and 17% in Arkansas. Google Play, meanwhile, blocks mobile lending applications imposing annual percentage rates of 36% or higher.

“With LCs/FCs that charge as much as 2.5% interest rate per day on top of other fees and charges, predatory lending continues to be one of the major subjects of complaints that the Commission receives from the public,” Mr. Aquino noted in the letter.

“Thus, the Commission respectfully requests the BSP to consider putting a ceiling on the interest rates, charges, and other fees that may be imposed by LCs and FCs. The proposed ceiling rates shall not apply to the whole financial sector, but solely to consumer loans and payday loans that are offered by the said companies.”

Predatory lending has propagated abusive, unethical and unfair means of collecting debts, as borrowers struggle to pay exorbitant charges on loans.

As part of efforts to protect borrowers, the SEC recently issued Memorandum Circular No. 18, Series of 2019, setting forth the Prohibition of Unfair Debt Collection Practices of Financing Companies (FC) and Lending Companies (LC).

The Commission also issued Memorandum Circular No. 19, Series of 2019, providing for the Disclosure Requirements on Advertisements of Financing Companies and Lending Companies and Reporting of Online Lending Platforms.

Meanwhile, the SEC has revoked the primary registrations of 2,081 companies for engaging in lending and financing activities without the necessary Certificate of Authority (CA) in its ongoing crackdown on illegal lending. It has also revoked the CA of two LCs.

Among the companies with order of revocation is Moola Lending Corporation. The Commission canceled Moola’s CA for violations of R.A. 3765, otherwise known as the Truth in Lending Act and of the terms and conditions of its CA under R.A. 9474 and its Implementing Rules and Regulations.

The SEC also issued cease and desist orders against 48 online lending applications for operating without incorporating and securing a CA. More information is available in the Lending & Financing Companies page on the Commission’s website.

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