1 March 2022

SEC IMPLEMENTS INTEREST RATE CAP ON LOANS OFFERED BY LENDING, FINANCING COMPANIES, THEIR ONLINE LENDING PLATFORMS

The Securities and Exchange Commission (SEC) has issued the memorandum circular implementing the cap on interest rates and other fees imposed by lending and financing companies, and their online lending platforms (OLPs).

SEC Memorandum Circular No. 3, Series of 2022 (SEC MC 3), which will take effect on March 3, provides the guidelines on the Implementation of Bangko Sentral ng Pilipinas (BSP) Circular No. 1133, Series of 2021 on the Ceiling/s of Interest Rates and Other Fees charged by Lending Companies, Financing Companies, and their Online Lending Platforms.

The BSP circular prescribes the maximum interest rates and other fees charged by lending and financing companies, and their OLPs.

The central bank fixed the maximum nominal interest rate at 6 percent per month, or about 0.2 percent per day, and the effective interest rate (EIR) at 15 percent per month, or about 0.5 percent per day for covered loans which are unsecured, general-purpose loans that do not exceed the amount of P10,000 and with a loan tenor of up to four months.

The EIR is 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 includes the nominal interest rate along with other applicable fees and charges, such as processing fees, service fees, notarial fees, handling fees, and verification fees, among others. It excludes fees and penalties for late payment and non-payment.

Meanwhile, lending and financing companies may only charge penalties up to 5 percent per month for late payment or non-payment on outstanding scheduled amounts due.

A total cost cap of 100 percent of the total amount borrowed, applying to all interest, other fees and charges, and penalties, regardless of time the loan has been outstanding, will likewise be imposed.

The cap on interest rates and other fees will apply to covered loans which lending and financing companies will offer once the rules take effect on March 3.

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Lending companies, which fail to comply with the rate limits, will be subject to penalties worth P25,000 and P50,000 for the first and second offense, respectively, while financing companies will be penalized with P50,000 for the first offense and P100,000 for the second offense.

The penalty for the third offense for both lending and financing companies will amount to twice the amount imposed for the second offense up to P1 million; the suspension of their financing and lending activities for 60 days; or the revocation of their Certificates of Authority to Operate as a Financing/Lending Company (CAs).

All lending and financing companies must submit an Impact Evaluation Report on or before January 15 of each year starting 2023. Noncompliance will entail a penalty of P10,000 plus P200 daily for financing companies and P10,000 plus P100 daily for lending companies. The second and third offenses will lead to the suspension and revocation of their CAs, respectively.

The Commission will also require all lending and financing companies, 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 applicable pricing parameters, that is compliant with SEC MC 3.

The new business plan, which must be submitted on or before May 5, 2022, will supersede the initial business plan or plan of operation in the Company Information Sheet submitted to the SEC prior to the issuance of a CA to the lending or financing company.

Late submission of the business plan will subject financing companies to a penalty of P10,000 plus P200 daily, and P10,000 plus P100 daily for lending companies. Non-submission, or the implementation of the business plan without prior approval of the Commission, will result to the suspension or revocation of their CA.

The Impact Evaluation Report will form part of the reports that the SEC shall submit to the BSP within one year from the implementation of the cap on interest rates and other fees charged by lending and financing companies.

The BSP, in turn, will take into account the Commission's reports in reviewing the policy, which is intended as a time-bound relief measure for the unbanked and underserved segment of the population amid the pandemic.

The Monetary Board, which exercises the powers and functions of the BSP, imposed the maximum interest rate and charges on covered loans offered by lending and financing companies, and their OLPs, upon the initiative of the SEC.

In October 2019, the SEC formally requested the BSP to consider capping the interest rates and other fees that lending and financing companies may charge on

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consumer and payday loans, amid the proliferation of predatory and abusive lending practices.

Several lending and financing companies have imposed exorbitant interest rates, fees, and charges on their unsecured, short-term, small-value, and high-cost consumer credit, causing Filipinos to fall into debt traps.

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

As part of efforts to tackle predatory and abusive lending, the SEC invoked the provisions of Republic Act No. 8556, or the Financing Company Act of 1998, and Republic Act No. 9474, or the Lending Company Regulation Act of 2007, which empower the Monetary Board of the BSP to prescribe maximum interest rates that could be charged by financing and lending companies, in consultation with the Commission and the industry, if warranted by prevailing economic and social conditions.

Earlier, the SEC issued Memorandum Circular No. 18, Series of 2019, setting forth the Prohibition of Unfair Debt Collection Practices of Financing Companies and Lending Companies.

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.

The issuance of SEC Memorandum Circular No. 10, Series of 2021 on November 5, 2021 further imposed a moratorium on the recording of new OLPs, as the SEC prepared for the release of new rules that will govern the licensing and registration of such entities.

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