CONSUMER CREDIT AND BANKING
PowerPoint Slides Presentation Handout

Strengthening Technical Competency for Consumer Protection in ASEAN
Consumer Credit and Banking
Session 1 –
Introduction
Session topics / Outline

- Background on consumer credit and banking laws and regulations.
- Types of consumer credit.
- Potential growth of the ASEAN consumer credit market.
- AMS context: examples of growth of consumer credit within AMS.
- Policy objectives to help improve consumer credit protection and promote consumer confidence and engagement in the consumer credit marketplace.
Consumer credit

- a credit granted to an individual to finance the purchase of consumer goods and services, personal expenses, or for one’s personal use through installment plans, charge account, short-term loans, etc.
Background on consumer credit and banking laws and regulations

Consumer credit covers:

- housing loans
- credit cards
- personal loans
- hire purchase agreements
- retail store credit
- payday loans
Aims of consumer credit laws and regulatory practices

- Promote consumer rights by protecting them (or helping them protect themselves) from financial (and sometimes physical) abuse and exploitation.
- Enhance consumer confidence and engagement with the consumer credit market.
Safe marketplace:

- The more consumers feel that the credit marketplace is safe, the more they are likely to purchase quality consumer credit products.
- A safe marketplace leads to increased economic activity and growth that benefits consumers, businesses, and economy.
Consumer credit market

Poorly regulated marketplace:
- allows a wide range of exploitative, inefficient, corrupt, and in some cases, dangerous practices
Examples of bad practices in the consumer credit marketplace

- Lenders who are charging low income consumers extremely high interest rates, and penalty rates for late payment of loans.
- This can trap large numbers of low income members of society in permanent states of poverty.
Examples of bad practices in the consumer credit marketplace

- Lenders misleading consumers about the terms of loan or guarantee arrangements
- Debt collectors using threats and violence to compel loan payments
- Unlawfully take a person’s property for repayment of debt
Examples of bad practices in the consumer credit marketplace

- Lenders having inappropriate access to borrowers’ credit histories and information
- Agents of lenders misrepresentation of borrowers’ income and assets
- Lenders requiring borrowers to enter into unnecessary or expensive insurance contracts as a condition for loans
Examples of bad practices in the consumer credit marketplace

Systemic and widespread bad practices of this kind can have serious economic consequences. For instance, these kinds of practices in the US-sub-prime house lending market during the 1990s and early 2000s triggered the Global Financial Crisis.
ASEAN expected to remain among the fastest growing regions in the world.
Growing middle class can spur greater demand for a wide range of goods and services if effective consumer protection systems are in place.
Financial integration will yield substantial benefits for ASEAN economies.
One example of the growth of consumer credit is Thailand’s, which grew from less than 3,000 million THB in early 2013 to nearly 3,500 million THB in 2015.
Household debt in 2013 in Thailand was 82% (Malaysia: 87%) of GDP.

This challenged central banks, monetary policies, and consumer regulators in ensuring that consumer credit growth occurs in an orderly and financially sustainable way.
Multiple laws have been enacted in recent times regulating the financial industry and protecting consumers.

The Philippine authorities have tightened the rules on credit card lending while pushing for the establishment of a credit bureau.
Banking in the Philippines is highly concentrated, with the largest six commercial banks controlling around 60% of all financial assets and 90% of all banking assets.

Commercial banks are often part of a family-owned business conglomerate and tend to operate as in-house banks.
Consumer lending in the Philippines is at a relatively early stage of development.

The Philippine authorities have tightened the rules on credit card lending while pushing for the establishment of a credit bureau.
Consumer lending in the Philippines continued to enjoy positive growth in 2017 which was mainly driven by:
- expansion in card lending
- sustained growth in auto lending
AMS context: Example of consumer credit growth in the Philippines: 2006-2018

- Increase in consumer confidence in taking out loans benefited
  - retail banks
  - government bodies
  - non-financial lending institutions
AMS context: Example of consumer credit growth in the Philippines: 2006-2018

- Consumer credit in Philippines increased in 2018:

<table>
<thead>
<tr>
<th>From 1\textsuperscript{st} quarter</th>
<th>To 2\textsuperscript{nd} quarter</th>
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<tbody>
<tr>
<td>PhP 302.29 Billion</td>
<td>PhP 318.98 Billion</td>
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Rate of exchange:
- PhP54: US$1

- Average from 2006 to 2018: PhP171.36 Billion
AMS context: Example of consumer credit growth in the Philippines: 2006-2018

- Consumer credit in the Philippines increased in 2018:
  - Reaching an all time high of PhP318.96 Billion in the 2nd quarter of 2018
  - Reaching a record low of PhP76 Billion in the 1st quarter of 2006
The 1997 Asian financial crisis in Thailand financial has similarities to the 2008 US subprime mortgage which led the collapse of Lehman Bros; threatened Citibank.
High-risk mortgage became available from lenders who funded mortgages and selling them to investors. This led to expansion of mortgage credit to borrowers who had below average credit histories & eventual default.
AMS context: Country Focus – Thailand and the 1997 Asian Financial Crisis

- US subprime mortgage crisis was preceded a decade earlier in 1997 where the fast-growing countries economies of Asia primarily Thailand and included Malaysia, Singapore, Indonesia, Hong Kong, and South Korea-crashed.
Thailand’s currency, the Thai baht had a huge devaluation from Bht 24:1USD to about Baht 36-42:1USD,

- Stock market prices went down and per capita incomes drastically dropped.
The financial crisis in Thailand and the US subprime mortgage crisis stemmed from:
  - the pursuit of risky lending practices by financial intermediaries in Asia and in the US, and
The financial crisis in Thailand and the US subprime mortgage crisis stemmed from:

- the grant of huge loans by the International Monetary Fund (IMF) to countries which have problems with the quality of supervision and regulation of the financial sector.
Gaps in the laws and regulatory practices: ASEAN and worldwide

Gaps on deficiencies of laws against:

- Lenders imposing excessive interest rates for loans.
- Lenders not adequately disclosing or misinforming borrowers about the loan and penalty interest rates.
Gaps in the laws and regulatory practices: ASEAN and worldwide

Gaps on deficiencies of laws against:
- Lenders engaging in harsh or unreasonable enforcement practices against borrowers in default of loan repayments.
Lenders refusing to suspend to reduce loan repayment amounts while the borrower is suffering from temporary hardship (e.g. sickness)

Lenders increasing credit card limits when the borrower has not sought it, leading to the borrower taking in too much credit
Gaps in the laws and regulatory practices: ASEAN and worldwide

- Lenders making no or insufficient assessments of a borrower’s capacity to repay the loan that leads to borrowers having loan commitments they cannot meet

- Lenders unfairly and inaccurately report on consumers’ credit histories
Gaps in the laws and regulatory practices: ASEAN and worldwide

- Lenders including one-sided and unfair terms in loan contracts
- Lenders requiring borrowers to enter into insurance contracts chosen by the lender – which are either provided on uncompetitive terms or are completely unnecessary to protect the borrower’s interests
Policy objectives to help improve consumer credit protection

Three core policy objectives

Transparency
- Disclosure:
  - Product pricing, terms and conditions
  - How to inquire/complain
  - Plain language, simple formats

Fair Treatment
- Responsible lending
- Marketing, selling, collections practices
- Data handling

Effective Recourse
- Standards for internal dispute resolution
- Accessible/workable for low-income and inexperienced users
- Regulators use complaints data for market monitoring
Session assessment

- What are your significant learnings from the topics discussed?
- How can you apply these learnings in your work related to consumer protection?
Consumer Credit and Banking
Session 2 –
Substantive Consumer Protection Issues
Session topics / Outline

- Consumer credit: types, responsible and irresponsible lending practices, misleading information on consumer and anti-competitive practices
- Terms of credit arrangement: excessive interest rates, unfair consumer credit, contract terms, guarantors and excessive fees and risks for retail investors
- Unreasonable and unfair debt collection practices
- Criminal practices – ATM / card fraud and counterfeiting
Consumer credit substantive consumer issues

- responsible and irresponsible lending practices
- excessive interest rates
- deceptive or misleading information
- unfair and harsh debt collecting practices
- anti-competitive conduct criminal practices
- other consumer protection measures
Types of consumer credit products

- Housing loans
- Personal loans (including car loans)
- Credit cards
- Payday loans
- Hire purchase arrangements
- Payday loans
Consumer credit responsible lending practices

- Require a lender to check whether the potential borrower will be able to repay the loan, and if they default whether they have sufficient security.
- To check whether the potential borrower has a bad credit or regular income.
Consumer credit irresponsible lending practices

- Do not make proper credit checks. This would appear to be against the lender’s self-interest.
- Calculate that they will make more money from providing easy credit instead of being prudent when providing loans.
The US sub-prime lending crisis, which was a catalyst to the 2008 global financial crisis, involved many lenders engaging in extremely poor lending practices.
Interest rates could be misleading when calculated.

Borrowers may be misled, or not be made sufficiently aware that harsh penalty rates apply.

A loan may be advertised as being interest-free for five years.
However, in the small print, it may say that if the borrower is late in making any repayment, the loan defaults to a high interest rate which is calculated from the commencement of the loan.
Example of anti-competitive practices on consumer credit

- Requiring the borrower also to take out insurance from an insurance company specified by the lender
- Requiring the borrower to take out other financial products that the borrower may not necessarily want
Credit term arrangement: Excessive interest rate caps - pros and cons

The argument in favor of interest rate caps:
- they protect borrowers from exploitation because it prohibits lenders from imposing high or excessive interest rates.

The argument against interest rate caps:
- they interfere with a competitive marketplace.
Practices in some countries: Do both

- Ensure a competitive and well-informed marketplace.
- At the same time, improving interest caps at high interest rates (e.g. 48% to prevent high exploitative loans).
Credit term arrangement: Harsh and unfair consumer credit contract loan terms

- Lender to repossess property without sufficient warning or time to remedy a default.
- Large early termination fees if a loan is repaid early or the borrower is late in paying the loan installments; or
Credit term arrangement: Harsh and unfair consumer credit contract loan terms

- Placing security over property with greater value than the borrower’s liability under the consumer’s credit contract.
The guarantor enters an agreement with the lender in which he or she agrees to repay the outstanding amounts of the loan if the borrower is in default.

The guarantor therefore takes on the risk of having to repay the outstanding amounts of the loan if the borrower defaults.
Credit term arrangement: Excessive fees and risks for retail investors

- Elaborate financial products and investment opportunities will likely be offered to consumers, who will be encouraged to invest their savings in a wide range of investment products.
Credit term arrangement:
Excessive fees and risks for retail investors

- Exposes the investors to the risks of paying excessive fees to advisers
- being unaware that the advisor has a personal interest or stake in the products being recommended, and
Credit term arrangement: Excessive fees and risks for retail investors

- being unaware of the underlying risks of investing in certain products
  - e.g. investing in pyramid schemes and other “get-rich-schemes”.

Are you sure this is how it’s supposed to work?

Leader of the organization

Newest Member
Types of unreasonable and unfair debt collection practices

- Phone harassment collection at all hours of the day
- Threatening physical violence
Types of unreasonable and unfair debt collection practices

- taking property owned by the borrower in satisfaction of the debt without providing proper notice so as to give the borrower a chance to make the repayment
- taking the property without first going through proper court processes
- selling off a house owned by the borrower known as a foreclosure
Types of unreasonable and unfair debt collection practices

- shaming the borrowers by writing their names and amount owed in the vicinity of their borrowers’ homes
- splashing paint on the doors of borrowers to get them to pay up
Criminal practices: ATM / Card Fraud

- Card-not-present.
  - Making purchases over the phone or Internet using stolen card details, without the card being physically present.
  - Using a fake identity for a credit card application.
Criminal practices: ATM / Card Fraud

- **Counterfeit card fraud.** Use of fake credit cards, including the production of counterfeit cards from data skimmed from legitimate credit cards.
Criminal practices: ATM / Card Fraud

- Card skimming. Copying information from a card’s magnetic strip at a point-of-sale terminal, and using the data to make counterfeit copies of the credit card or using the details to commit card not present fraud.
Buying card details. Details from a stolen credit card can be bought and sold and then used to commit fraud.
Criminal practices: ATM / Card Fraud

- **Hacking.** Criminals can hack into databases of account details held by businesses, or intercept account details travelling in unencrypted form, and use the stolen details to commit fraud.
Criminal practices: ATM / Card Fraud

- *Card theft.* Stealing a credit card and making purchases by forging the card holder’s signature or committing “card not present fraud”.
Stored value card fraud. Card readers can be programmed to deduct greater value from the card than authorized by the user.
High prevalence of counterfeit products being sold online can result in decreased confidence in shopping online, which can decrease international commerce within ASEAN.

Counterfeit goods make up over 2% of the world’s economic output, with the total value of counterfeit goods globally exceeding $1.7 trillion.
How do most common “consumer credit and banking malpractices (misinformation and deceptive acts on contract terms (loan), excessive rates, high risk exposure, anti-competitive acts, irresponsible lending practices, unreasonable and unfair credit collection practices, criminal acts i.e. ATM/card fraud)” work?
What threats do these consumer credit and banking malpractices pose and how can they be addressed by the public, NGO/consumer groups and government-legislative and executive branches, including government protection agencies (CPAs)?
Consumer Credit and Banking
Session 3 –
Pre-Market Interventions / Protection
Session topics / Outline

- AMS measures on irresponsible lending practices
- Laws prohibiting anti-competitive conduct misleading and deceptive information, unfair credit contract (loan) terms, excessive interest rates and high-risk exposure to investors
- Prohibited business conduct: unreasonable and coercive debt collection practices, guarantor requirement and investment advisory
- Other consumer protection measures: privacy and confidentiality in bank transactions, data protection, criminal acts e.g. ATM/Card fraud and counterfeiting
Irresponsible lending practices: AMS measures / pre-market interventions

Laws / measures on:
- irresponsible lending practices
- anti-competitive conduct
Irresponsible lending practices: AMS measures / pre-market interventions

- Regulations on prohibited business conduct:
  - unreasonable and coercive debt collection practices
  - guarantor requirement
  - investment advisory
Irresponsible lending practices: AMS measures / pre-market interventions

- Other consumer protection measures
  - Privacy and bank confidentiality
  - Data protection
  - Criminal acts e.g. ATM / card fraud
AMS measures on irresponsible lending practices

- Some ASEAN members have introduced measures to curtail irresponsible lending practices and reduce the chances of consumers becoming over-indebted.
AMS measures on irresponsible lending practices

Regulations of Bank Negara Malaysia on July 2013

- To limit the length of new personal loans to 10 years.
AMS measures on irresponsible lending practices

Regulations of Bank Negara Malaysia on July 2013

- To limit the length of new *housing loans* to 35 years
AMS measures on irresponsible lending practices

Regulations of Bank Negara Malaysia on July 2013

- To ban pre-approved personal financing products such as unsolicited loans
AMS measures on irresponsible lending practices

Regulations of Bank Negara Malaysia on July 2013 is designed to:

- dissuade consumers to take excessive principal loan obligations by forcing them to pay a higher monthly repayment amount.
AMS measures on irresponsible lending practices

Regulations of Bank Negara Malaysia – credit card guidelines (2011):

- Principal card holders with RM36,000 annual income are allowed to hold credit cards from a maximum of two issuers only.
- The maximum credit limit is two times the card holder’s monthly income per issuer.
AMS measures on irresponsible lending practices

Monetary Authority of Singapore:

- enforces rules aimed at helping individuals make better borrowing decisions
- introduced rules to be fully implemented by 2019 by financial institutions
- regulates money laundering
- requires all moneylending businesses to hold a license
Monetary Authority of Singapore: regulation requires financial institutions to obtain a consumer’s consent:

- before increasing his or her credit card limit
- not increase a consumer’s debt if they have an existing unsecured debt that is more than 60 days in arrears.
 Monetary Authority of Singapore: regulation requires financial institutions to obtain a consumer’s consent:

- not roll over a consumer’s existing debt without informing the consumer of the cost of doing so
Monetary Authority of Singapore requires a moneylender to:

- inform the borrower in writing of the terms and conditions of the loan before providing the loans
- provide the loan contract to the borrower
- supply to the borrower with statements of account, loan documents and receipts
Some countries, including Australia, recently introduced laws requiring lenders to make proper credit checks of the potential borrower’s capacity to repay a loan.
Prohibiting anti-competitive conduct

Malaysian Financial Services Act 2013; Islamic Financial Services Act prohibits lenders, (i.e. financial service providers) from:

- engaging in conduct that are unfair to financial consumers
Malaysian Financial Services Act 2013; Islamic Financial Services Act prohibits lenders, (i.e. financial service providers) from:

- restricting the freedom of borrowers to choose between financial services or products available to them
- engaging in collusive business practices

Prohibiting anti-competitive conduct
Laws prohibiting excessive interest rates: AMF focus: Indonesia

Bank of Indonesia (Central Bank)

- introduced maximum loan-to-value ratio for maximum consumer loan
- the minimum down payment for home and car loans is 30%
- banks not permitted to provide loans to finance a loan deposit
Laws prohibiting excessive interest rates: AMF focus: Indonesia

Bank of Indonesia (Central Bank)
- sets a maximum interest rates for credit card
- prohibits late payment fines, interest or fines on unpaid interest
In 2014, the bank issued Prohibited Business Conduct rules under Schedule 7 of the Financial Services Act and Islamic Financial Services Act.
Bank Negara Malaysia (Central Bank of Malaysia)

- Clause 11 of the rules specifies the types of conduct the Bank does and does not regard as
  - pressuring a consumer into acquiring another financial service or product.
Singapore’s Financial Advisors Act:

- prohibits financial advisors to be as a real estate agent or as a moneylender
- regulates the financial advisory industry
- builds investor confidence in the industry & in making financial investments

- To provide policy directions on money, banking, and credit
- To supervise bank operations
Philippine Central Bank Law: Republic Act No. 7683

- To exercise regulatory powers over finance companies, non-bank financial institutions performing quasi-banking functions
Philippine Central Bank Law: Republic Act No. 7683

- To maintain price stability
- To promote and maintain monetary stability and convertibility of the peso.
Regulation of banking operations in the Philippines: Republic Act No. 8791

“an act providing for the regulation of the organization and operations of banks, quasi-banks, trust entities and for other purposes”

enacted by Congress in 2000
Philippine Lending Act:
Republic Act No. 9474

- Approved on May 22, 2007
- Known as the “Lending Company Regulation Act of 2007”
- To regulate the establishment of lending companies, to place their operation on a sound, efficient, and stable condition as a source of credit.
AMS Context:
Philippine Banking Laws & Regulations

Philippine Lending Act: Republic Act No. 9474

- To prevent and mitigate practices prejudicial to public interest
- To lay down minimum requirements and standards to establish and do business
Philippine Credit Bureau: the Credit Information System Act-Republic Act No. 9510 (Oct 31, 2008). “An act establishing the credit information system and for other purposes”

- For reliable credit information concerning the credit standing and track record of borrowers.
Philippine Credit Bureau: the Credit Information System Act—Republic Act No. 9510 (Oct 31, 2008)

- To improve the overall availability of credit especially to micro, small and medium-scale enterprises
- To provide mechanisms to make credit more cost-effective
Philippine Credit Bureau: the Credit Information System Act-Republic Act No. 9510 (Oct 31, 2008)

- To reduce the excessive dependence on collateral to secure credit facilities.
- To have credit information provided at the least cost.
Philippine Credit Bureau: the Credit Information System Act - Republic Act No. 9510 (Oct 31, 2008)
- To ensure the protection of consumer rights and existence of fair competition in the industry at all times.
- To reduce over-all credit risk.
Other consumer protection measures: Privacy

- Banks have a general contractual and banking obligation of confidentiality towards their customers.
Other consumer protection measures: Privacy

- Information held by a credit reporting agency should only be disclosed to third parties who have a permissible purpose for accessing the credit report.
Information held by a credit reporting agency should only be disclosed to third parties who have a permissible purpose for accessing the credit report.

A credit reporting agency must also ensure that the information in a credit report is accurate, current and complete, and does not mislead.
Other consumer protection measures: Privacy

A credit reporting agency should also only retain certain information about a consumer.

- full name
- aliases
- date of birth
- sex
- address
- employer
- past credit applications
Other consumer protection measures: Privacy

Information retained by credit reporting agency:
- amount of credit sought
- lender is the individual current lender
- 60 days payment overdue
- recovered the outstanding credit
- dishonored check
- bankruptcy order
Other consumer protection measures: Privacy

A credit reporting agency **out not to retain** information about an individual’s.

- political
- religious beliefs
- criminal record
- medical history
- race
- sexual preferences
Other consumer protection measures: Privacy

Information that should not be retained by credit reporting agency:

- lifestyle
- character
- reputation
Other consumer protection measures: Data protection

- Integrity of data stored by credit reporting agencies and lenders must be protected.
- In Thailand there is an implied constitutional right to privacy.
Other consumer protection measures: Data protection

- Under Indonesian law, personal data may only be passed on to third parties using electronic media with the consent of the person concerned.

- The collection and retention of consumers’ data is regulated by the Personal Data Protection Act.
Other consumer protection measures: Data protection

- Monetary Authority of Singapore is primarily responsible, among other things, for ensuring the proper collection and retention of consumers’ financial data.
Other consumer protection measures: Data protection

- Consumers interests regarding privacy are also protected to some extent by the voluntary Code of Banking adhered to by a number of Singaporean banks.
Consumer protection measure on credit card fraud: Philippines

- Republic Act No. 8484 (Access Devices Regulation Act of 1998). Requires credit card providers to provide information in writing or orally (annual percentage rate; computation method, fees, and toll-free numbers).
Consumer protection measure on credit card fraud: Philippines

- BSP Circular No. 398 dated 21 August 2003. Requires the development of consumer credit through innovative products under conditions of fair and sound consumer credit practices
Consumer protection measure on credit card fraud: Philippines

- BSP Circular No. 454 dated 24 Sept 2004. Regulates credit card operations of banks and subsidiary credit card companies
Consumer protection measure on credit card fraud: Philippines

- BSP Circular No. 702 series of 2010. Amending regulations to enhance consumer protection in the credit card operations of banks and their subsidiary or affiliate credit card companies
Other consumer protection measures: Penalties on ATM / card fraud

- There are significant penalties under current ASEAN laws against ATM fraud.
- Consumers may not know that their information has been stolen, and may not know what to do in the event of fraud.
Other consumer protection measures: Signs of ATM fraud

- Unusual additions, marks or changes to the ATM
- Signs that the ATM has been tampered with
- Swiping a card more than once at the ATM
- Unusual or unauthorized transactions or charges on account or credit card statement
Other consumer protection measures: Counterfeiting

- ASEAN laws already prohibit the sale of counterfeit goods.
- There are laws that prohibit the sale of goods which do not fit the description of the seller.
- Enforcement actions against counterfeiters have generally been limited.
Session assessment

- What are the three most important learnings you have gained as a result of this Session?
- How can you use these learnings in your work in consumer protection?
Consumer Credit and Banking
Session 4 – Post-Market Interventions / Protection
Session topics / Outline

- The investigation of consumer complaints, including the objectives of investigations and the power to investigate, the gathering and management of evidence and the rules governing the use of evidence, and the conduct of investigations.

- Inter-agency co-operation and data sharing amongst ASEAN member nations, covering sharing of intelligence around consumer protection issues and shared training and resources between ASEAN consumer agencies.
Post-market intervention: Effective investigation

- Enforcing consumer credit laws
- Protecting consumers from unjust and harmful consumer credit practices through:
  - investigations
  - objectives of investigative power to investigate
Post-market intervention: Effective investigation

- Protecting consumers from unjust and harmful consumer credit practices through:
  - gathering and management of evidence
  - rules governing the use of evidence and conduct of investigation
To determine if an offense under the relevant consumer protection law has occurred.

To determine whether or not the relevant consumer protection authority obtained sufficient evidence to prove the offense.
Effective investigations: enforcement and the objectives of investigation

- To determine if the relevant authority can achieve an effective outcome from its investigation.
- To determine where the problem or issue lies in respect of the authority’s enforcement priorities and currently available resources.
Important notes on evidence

- There are significant and important differences in the laws and procedures in every jurisdiction.
Types of evidence

- testimony
  - personal appearance
  - affidavits
  - statements
- documentary evidence
- physical evidence
- expert evidence
Types of evidence

Documentary evidence
- Reports
- Letters
- Invoices
- Receipts
- Advertisements
- Official records
- Customs declaration
- Leases
- Certification of compliance with standards
Types of evidence

Physical evidence
- Product (e.g. credit card)
Objectives of investigation: Rules of evidence

Expert evidence
- an opinion evidence
- scientific or technical knowledge
- opinions based on facts adduced in the case
- circumstantial evidences
- compliance with standards
Objectives of investigation: Rules of evidence

- Vary between jurisdictions but intent of the rules is universal to ensure quality, integrity, and relevance of evidence.
- Case officer not required to become experts but important that they have general understanding of the rules.
Objectives of investigation: Rules of evidence

- Investigators need internal or external legal advise before a decision is reached.
Not admissible as evidence
- Opinion evidence:
  - refers to evidence of what the witness thinks, believes, or infers in regard to facts, as distinguished from personal knowledge of the facts themselves.
- Hearsay evidence
- Secondary evidence
Objectives of investigation: Rules of evidence

Common exceptions are non-expert opinions like particular matters of every day life
- Time
- Handwriting identification
- Eye witness identification
- Physical objects identification
- General condition of objects
- Approximate value of objects
- The ability to speak & understand a language
Conduct of investigations by CPA: Procedures

- Determine the objectives
- Realize the adverse effect on the person or company investigated
- Know the key concepts about evidence & information-gathering
- Identify the sources of, obtain, and secure evidence during an investigation
Ensure the quality, integrity, and relevance of evidence
Indicators of an effective investigation outcome
Proving a person or company guilty of contravention of a provision of a relevant law
Conduct of investigations by CPA: Procedures

- Stopping the conduct
- Empowering consumers to recognize, avoid, and report similar conduct in the future
- Undoing the harm to affected consumers
- Compensating those who have been harmed
Conduct of investigations by CPA: Procedures

- Encouraging future compliance by traders
- Punishment
- Showing that no contravention occurred
Conduct of investigations by CPA: Procedures

Generalized life cycle of an investigation
- Trigger
- Preliminary or initial investigation
- Substantive investigation
- End game
There is significant potential for consumer agencies to collaborate across borders within ASEAN on consumer credit issues.

Three major areas in which agencies can benefit from sharing across borders:
- training
- intelligence
- resources
Some AMS introduced a number of laws intended to prevent card fraud, unfair moneylending practices, and counterfeiting. Name one of these and explain how its provisions could effectively prevent fraud and unfair practices from occurring.

How can you use these learnings in your work in consumer protection?
Consumer Credit and Banking
Session 5 – Redress Mechanisms
Session topics / Outline

- Redress Models with their corresponding approaches / techniques
- Management and communication tools of the Consumer Protection Agency
Redress mechanisms are the different approaches to the citizens’ rights to petition the government to address a particular grievance for services of professionals that result in injury and loss.
Redress models and their corresponding approaches/techniques

Model 1: Internal complaint-handling system

- Implemented by businesses and government agencies
- Embodies the principles and features of complaint handling
- Voluntary or required by law
- Appropriate for organizations of all sizes
- Guidance in implementation can be found in international Standard ISO 10002
Internal complaint handling systems and external consumer redress schemes
Redress models and their corresponding approaches/techniques

Model 1: Internal complaint-handling system
Step 1: Survey if system is needed
Step 2: Develop policy for discussion
Step 3: Design system
Step 4: Implement system
Step 5: Review system every 2 years and improve continuously
Redress models and their corresponding approaches/techniques

Model 2: Self-regulatory external redress schemes

- Set up with little formality
- Usually used in the early stages of consumer policy and law implementation
- Tend to have relatively low standards of performance
- Are usually not enforceable, unless with contract
Model 2: Self-regulatory external redress schemes

- No stakeholder engagement particularly with consumers and governments
- Generally held in low regard by consumers and some governments
- Interim step in developing a consumer redress scheme
Redress models and their corresponding approaches/techniques

Model 3: Statutory complaint bodies

- Broad jurisdiction, usually cover most economic activities
- Some are established to deal with a specific industry or practice
Model 3: Statutory complaint bodies

- Generally, part of a larger government agency responsible for policy and law enforcement
- May be linked to industry regulators and small claims courts
Redress models and their corresponding approaches/techniques

Model 4: Public-sector redress body (also known as Ombudsman)

- Involves contractors working in behalf of government but with no enforcement power
- May include anti-corruption and human rights functions
- Can deal with systemic issues of poor administration
Redress models and their corresponding approaches/techniques

Model 5: Small claims courts or tribunals
- Designed for swift and inexpensive redress for consumers
- Most do not permit legal representation
- Require mediation prior to adjudication
Redress models and their corresponding approaches/techniques

Model 5: Small claims courts or tribunals
- Employ Alternative Dispute Resolution (ADR) techniques
- Judgments are enforceable in the courts
Redress models and their corresponding approaches/techniques

Model 6: Private organization to improve consumer complaint system

- Made up of representatives from businesses and government agencies
Redress models and their corresponding approaches/techniques

Model 6: Private organization to improve consumer complaint system

- Provides best practice training on consumer support functions (e.g. complaints handling)
- Requires senior management support
Redress models and their corresponding approaches/techniques

Model 6: Private organization to improve consumer complaint system

- Highly effective in countries with strong domestic and international networks
- Consistent with building a responsible and responsive business sector
Redress models and their corresponding approaches/techniques

Model 7: Cross-border redress

- ASEAN regional facility for cross-border complaints
- Employs strategic approach toward consumer protection
Redress models and their corresponding approaches/techniques

Model 7: Cross-border Redress

- Contains policy measures and detailed priority actions, including development of:
  - Notification and information exchange mechanism by 2010
Model 7: Cross-border Redress

- Contains policy measures and detailed priority actions, including development of:
  - Cross-border consumer redress mechanism by 2015
  - Strategic roadmap for capacity-building by 2010
Redress models and their corresponding approaches/techniques

Cross-border access to justice

To date, no single model suits all AMS. Guidelines therefore, should be taken to assess the current consumer protection framework of each ASEAN member state.
Considerations to determine the stage of development for implementation:

- Little or no measure for consumer redress.
- Basic professional admission/striking off provisions for gross negligence or dishonesty.
Redress models and their corresponding approaches/techniques

- Agreement within the jurisdiction on the need to respond to consumer complaints against health care providers.
- Growing consumer pressure with the establishment of complaint and redress schemes.
- Professional associations’ involvement in complaint and redress schemes.
Redress models and their corresponding approaches/techniques

- Government intervention or threats to establish consumer redress schemes.
- Creation of industry ombudsman or other industry-based schemes.
- Best-practice complaint systems and redress schemes.
Redress models and their corresponding approaches/techniques

The seven models incorporate the approaches of:

- Alternative Dispute Resolution (ADR)
- Arbitration
- Mediation
- Group actions / Class suits
- Cross-border access to justice
Consumer Awareness and Education

Key role and responsibility of CPA and other sector regulators:

- Help consumer become aware of their rights, including with respect to product safety
Management and Communication Tools of CPA

Consumer Awareness and Education

- Consumers should be informed of:
  - Their rights to safety
  - Available remedies if they encounter unsafe products
  - How to access remedies
  - Where to go for further advice
Management and Communication Tools of CPA

Consumer Awareness and Education

- Information dissemination targeting specific groups:
  - The general public
  - Women and homemakers
  - Students
  - Rural communities
Tools for information dissemination:
- Website and social media
- Media campaigns and public events
- Printed leaflets/booklets, etc.
- Partnership programs with Civil Society Organizations
- Toll-free consumer hotline
- Annual reports
Management and Communication Tools of CPA

IT-Based Consumer Complaints Registration System

An efficient and effective means of complaint handling should at the very least have:

- Basic information on common consumer complaint areas
Categorized consumer complaints according to areas with reference number

Standard letters with blanks to fill in information for different types of complaints

Inter-agency contact information to enable easy referral
Management and Communication Tools of CPA

Inter-Agency Collaboration

- Coordination among central and local CPA authorities is a major challenge in countries with new consumer protection law regimes
Major challenges exist in countries that have limited financial resources.

Major challenges exist in countries with permitted high levels of decentralization.
Management and Communication Tools of CPA

Inter-Agency Collaboration

- Collaboration with related agencies, courts, and other concerned organizations
- Collaboration with regional and international bodies
Management and Communication Tools of CPA

Converting Consumer Complaints to Consumer Policy

Retrieve data from registration system

Analyse data and write report

Propose policy action from data analysis
Session Assessment

- Share the three most important learnings you have gained as a result of this Session.
- How can you apply these learnings in your work related to consumer protection?