



# CONSUMER CREDIT AND BANKING

PowerPoint Slides Presentation Handout

Strengthening Technical Competency for  
Consumer Protection in ASEAN





# **Consumer Credit and Banking**

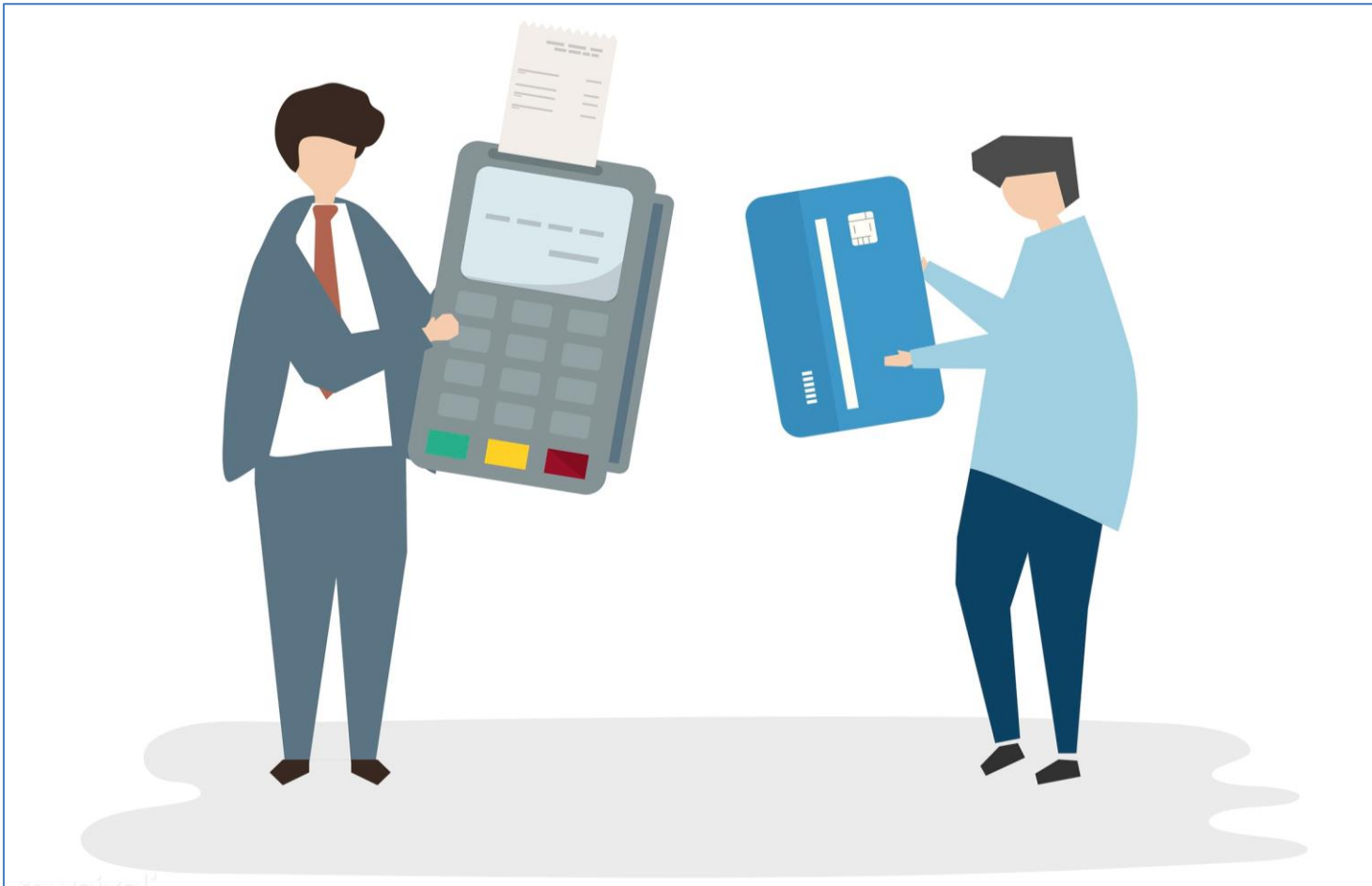
## **Session 1 –**

### **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.

# Background on consumer credit and banking laws and regulations



## 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.

# 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 consumer credit market: Potential growth



- 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.

# AMS context: Thailand's consumer credit growth



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.<sup>14</sup>

# AMS context: Thailand and Malaysia's consumer credit growth



- 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.

# AMS context: Philippines' consumer credit growth



- 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.

# AMS context: Philippines' consumer credit growth



- 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.

# AMS context: Philippines' consumer credit growth



- 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.

# AMS context: Example of consumer credit growth in the Philippines: 2006-2018



- 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:

From 1 <sup>st</sup> quarter	To 2 <sup>nd</sup> quarter
PhP 302.29 Billion	PhP 318.98 Billion

Rate of exchange:  
PhP54: US\$1

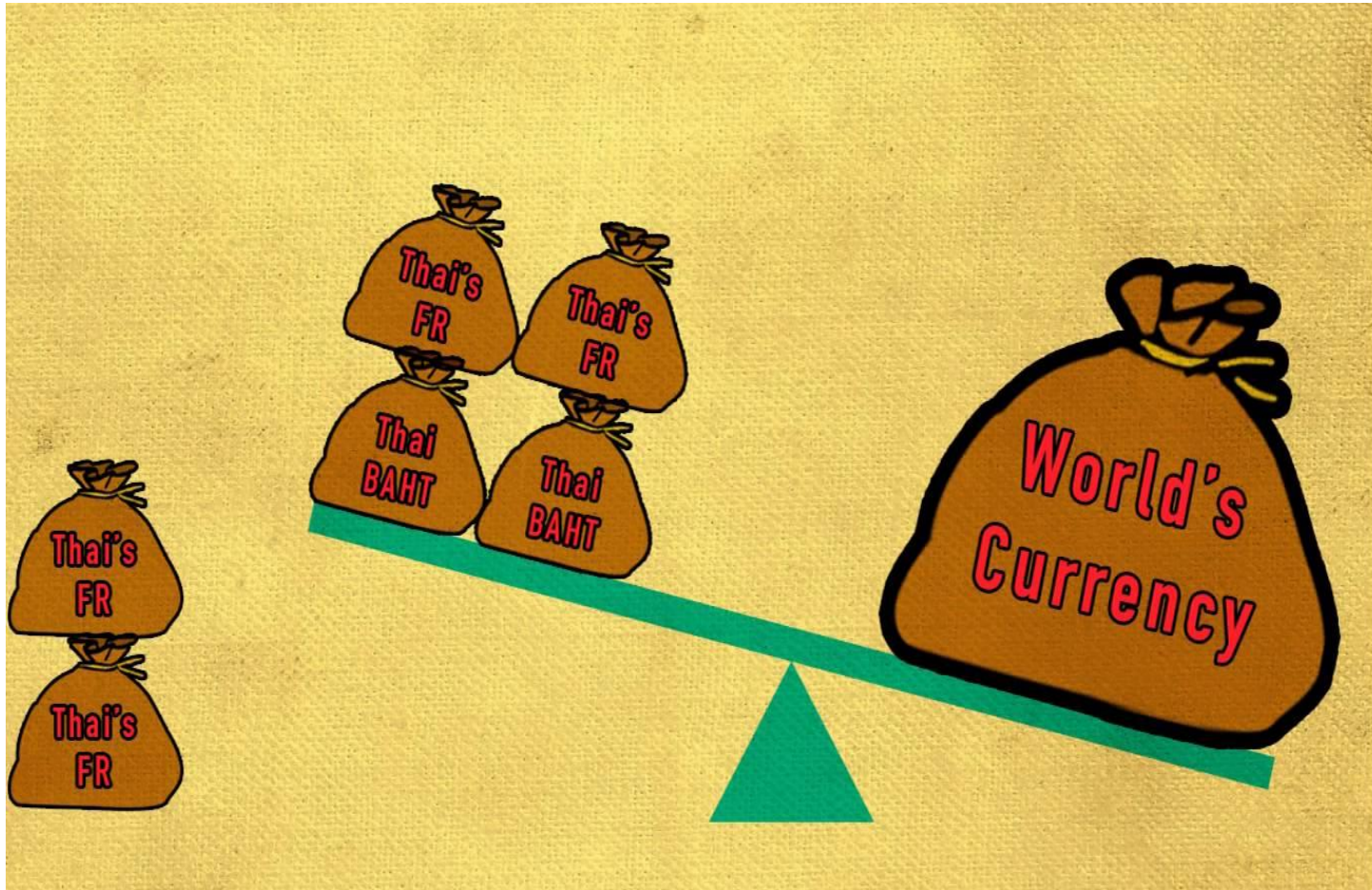
- Average from 2006 to 2018: PhP171.36 Billion

# AMS context: Example of consumer credit growth in the Philippines: 2006-2018



- Consumer credit in Philippines increased in 2018:
  - Reaching an all time high of PhP318.96 Billion in the 2<sup>nd</sup> quarter of 2018
  - Reaching a record low of PhP76 Billion in the 1<sup>st</sup> quarter of 2006

# AMS context: Country Focus – Thailand and the 1997 Asian Financial Crisis



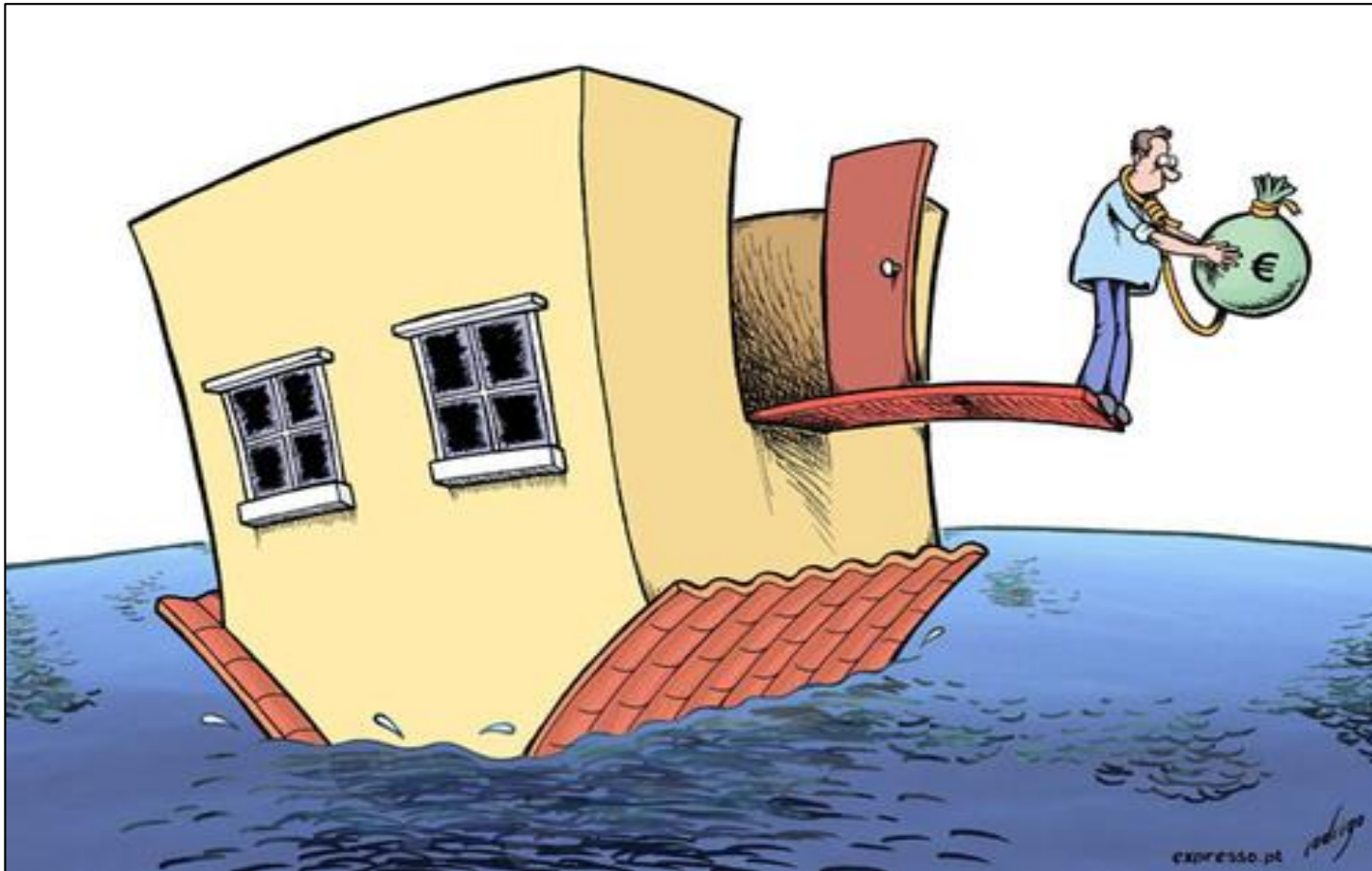
- The 1997 Asian financial crisis in Thailand financial has similarities to the 2008 US subprime mortgage which led the collapse of Lehman Bros; threatened Citibank.

# AMS context: Country Focus – Thailand and the 1997 Asian Financial Crisis



- 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.

# AMS context: Country Focus – Thailand and the 1997 Asian Financial Crisis



- 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.

# AMS context: Country Focus – Thailand and the 1997 Asian Financial Crisis



- 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

# AMS context: Country Focus – Thailand and the 1997 Asian Financial Crisis



- 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.

# Gaps in the laws and regulatory practices: ASEAN and worldwide



- 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.

# Example of global impact of irresponsible consumer credit lending practices



- 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.

# Misleading information on consumers



- 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.

# Misleading information on consumers



- 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



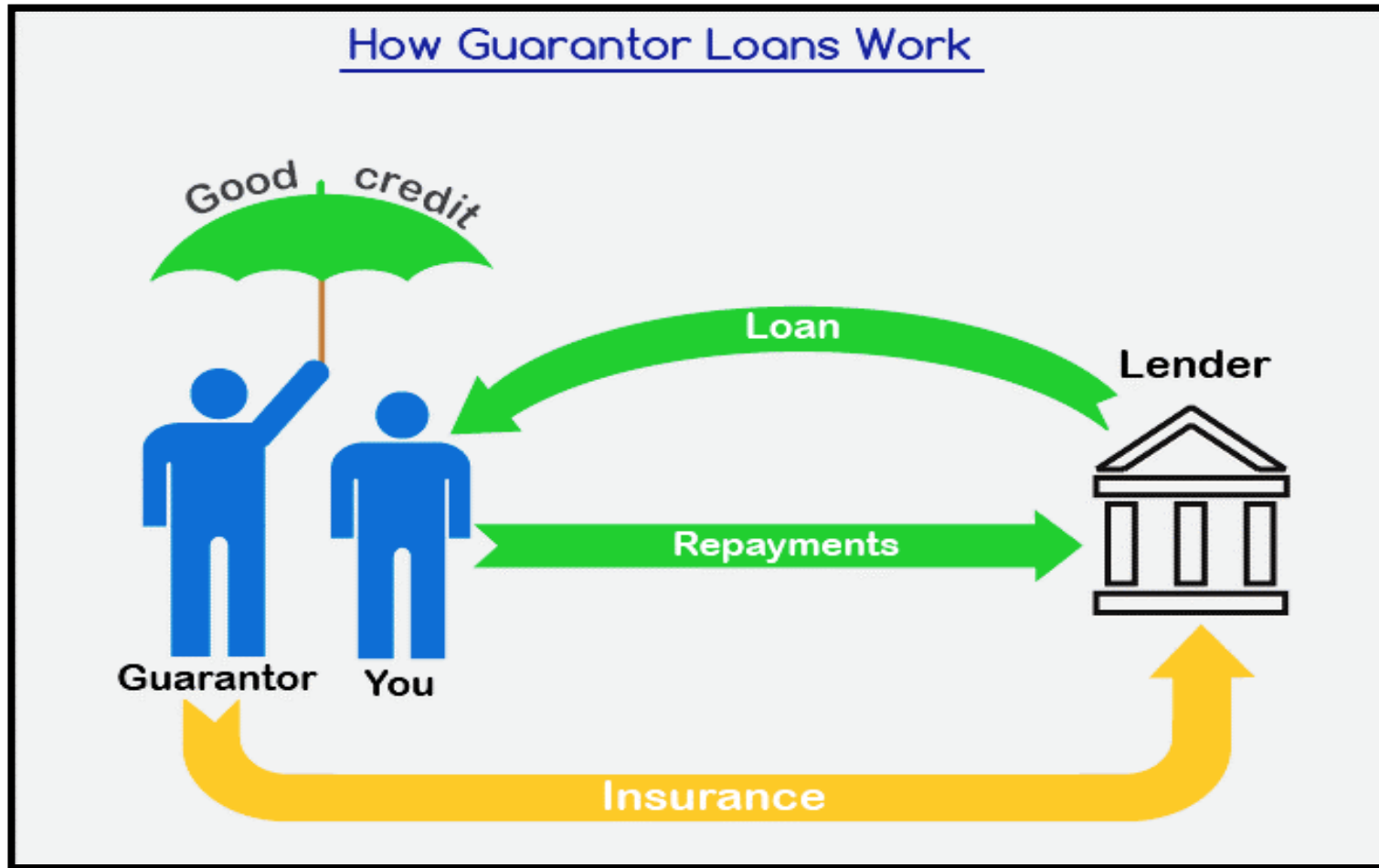
- Lender to repossess property without sufficient warning or time to remedy a default.
- Large early termination fees if a loan is repaid early or the borrower is late in paying the loan installments; or

# 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.

# Credit term arrangement: Guarantors for consumer loans



- 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



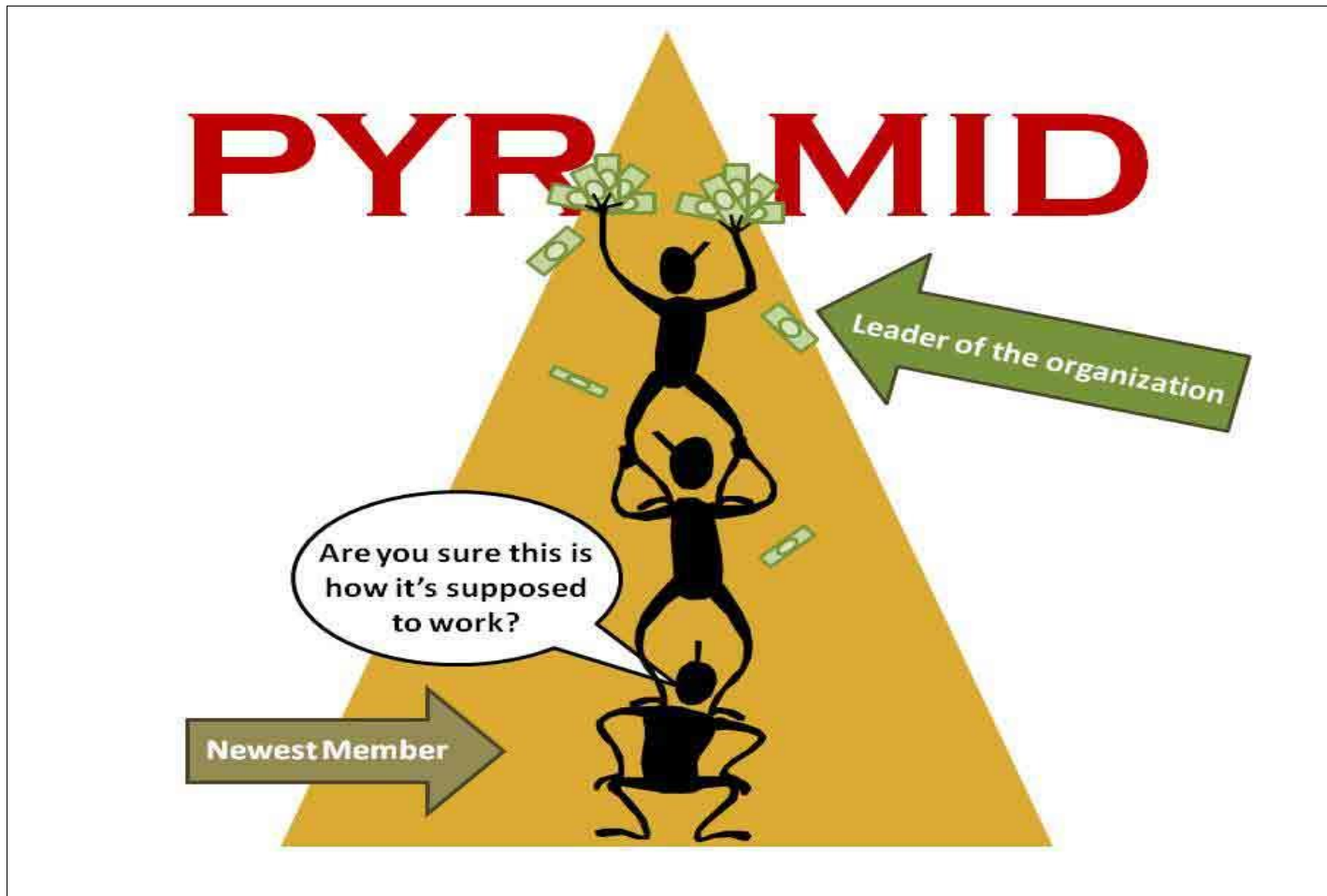
- Elaborate financial products and investment opportunities will likely be offered to consumers, who will be encouraged to invest their savings in a wide range of investment products.

# 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”.

# 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



**DEFAULTER**

Live  
Law.in

- 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.

# Criminal practices: ATM / Card 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".

# Criminal practices: ATM / Card Fraud



- *Stored value card fraud.* Card readers can be programmed to deduct greater value from the card than authorized by the user.

# Criminal practices: Counterfeiting



- 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.

# Session assessment



- 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?

# Session assessment



- 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

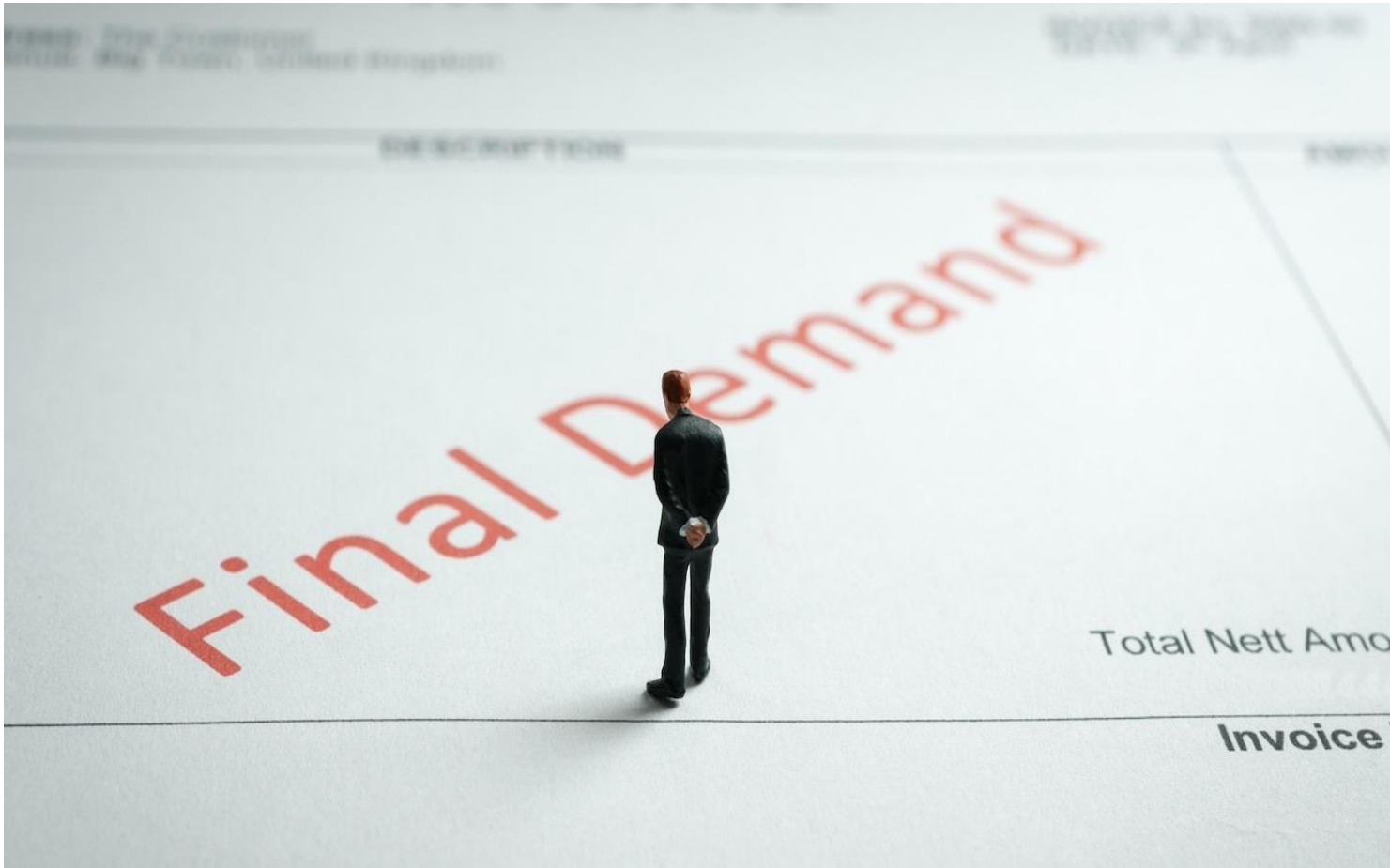
# Irresponsible lending practices: AMS measures / pre-market interventions



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

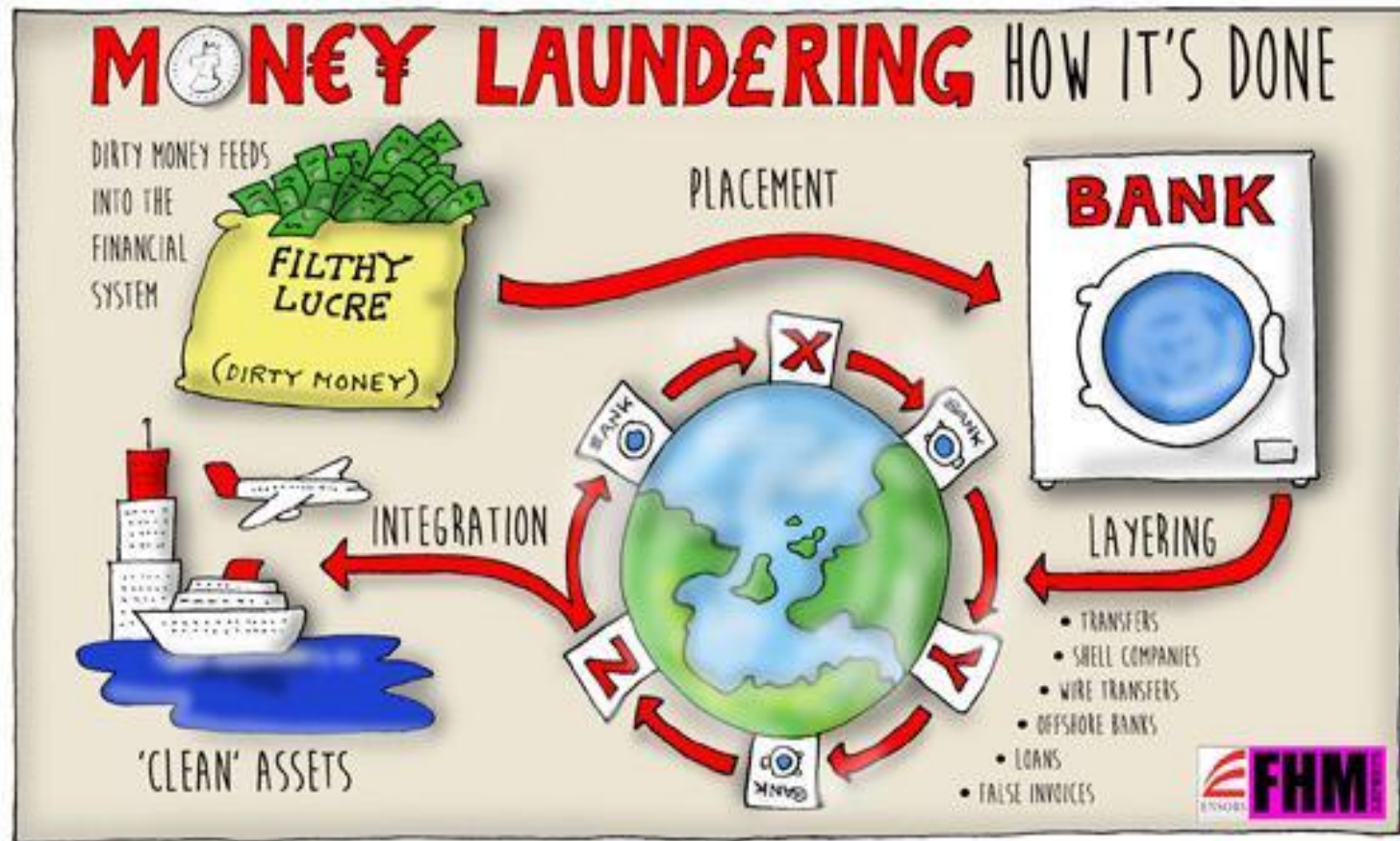
# AMS measures on irresponsible lending practices



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.

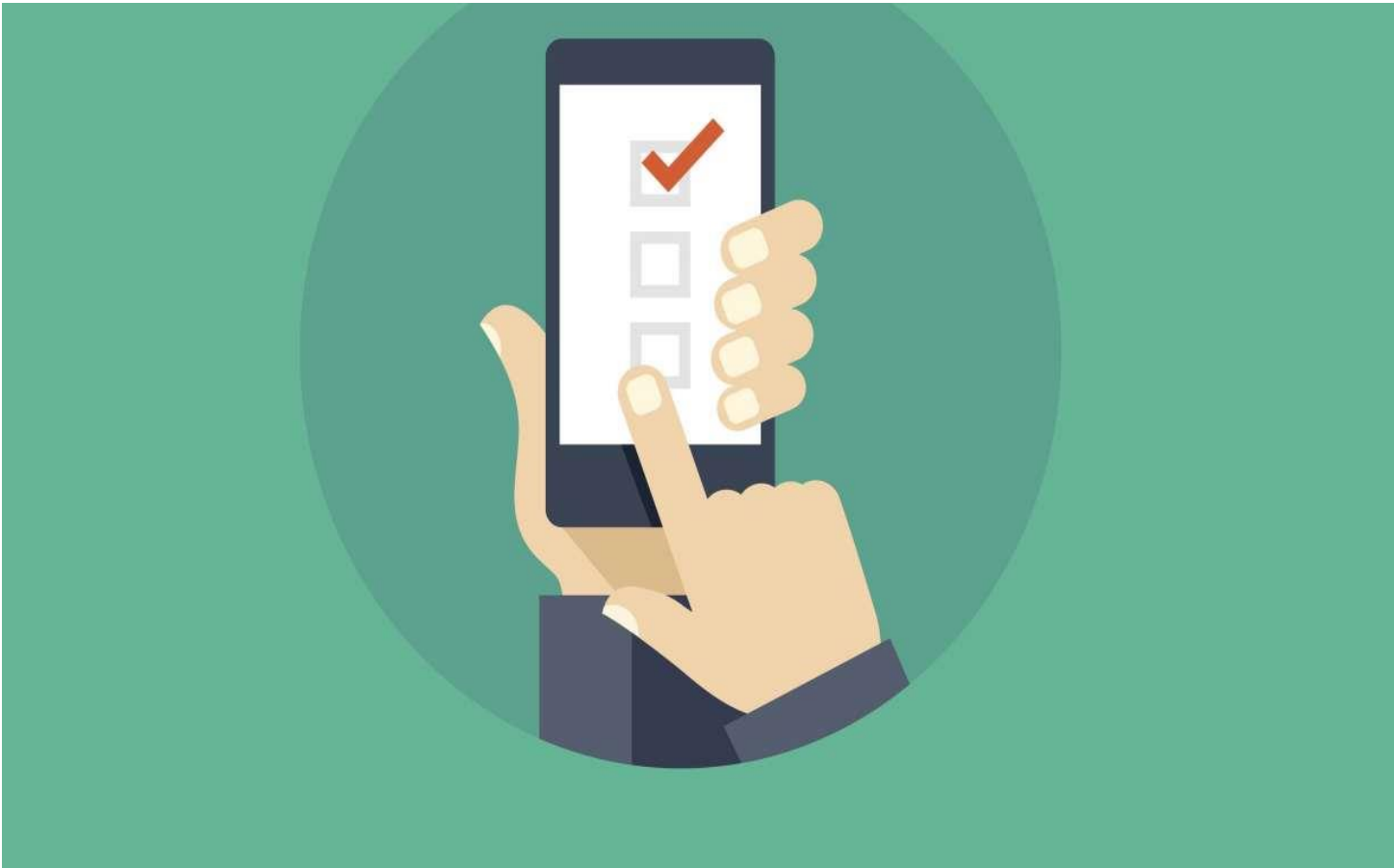
# AMS measures on irresponsible lending practices



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

# AMS measures on irresponsible lending practices



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.

# AMS measures on irresponsible lending practices



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

# AMS measures on irresponsible lending practices



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

# Laws prohibiting high-risk exposure to investors



- 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

# Prohibiting anti-competitive conduct



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

# 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

# Prohibited business conduct: AMS focus: Malaysia



## Bank Negara Malaysia (Central Bank of Malaysia)

- In 2014, the bank issued Prohibited Business Conduct rules under Schedule 7 of the
  - Financial Services Act and
  - Islamic Financial Services Act

# Prohibited business conduct: AMS focus: Malaysia



**BANK NEGARA MALAYSIA**

**CENTRAL BANK OF MALAYSIA**

**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.**

# Prohibited business conduct: AMS focus: Singapore



## 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

# AMS Context: Philippine Banking Laws & Regulations



Philippine Central Bank Law:  
Republic Act No. 7683 – “The  
Central Bank Act” of 1993  
(Section 3 Responsibility and  
Primary Objective)

- To provide policy directions on money, banking, and credit
- To supervise bank operations

# AMS Context: Philippine Banking Laws & Regulations



Philippine Central Bank Law:  
Republic Act No. 7683

- To exercise regulatory powers over finance companies, non-bank financial institutions performing quasi-banking functions

# AMS Context: Philippine Banking Laws & Regulations



Philippine Central Bank Law:  
Republic Act No. 7683

- To maintain price stability
- To promote and maintain monetary stability and convertibility of the peso.

# AMS Context: Philippine Banking Laws & Regulations



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

# AMS Context: Philippine Banking Laws & Regulations

## LOANS



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

# AMS Context: Philippine Banking Laws & Regulations



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.

# AMS Context: Philippine Banking Laws & Regulations

8



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

# AMS Context: Philippine Banking Laws & Regulations



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

# AMS Context: Philippine Banking Laws & Regulations



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.

# 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.
- 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

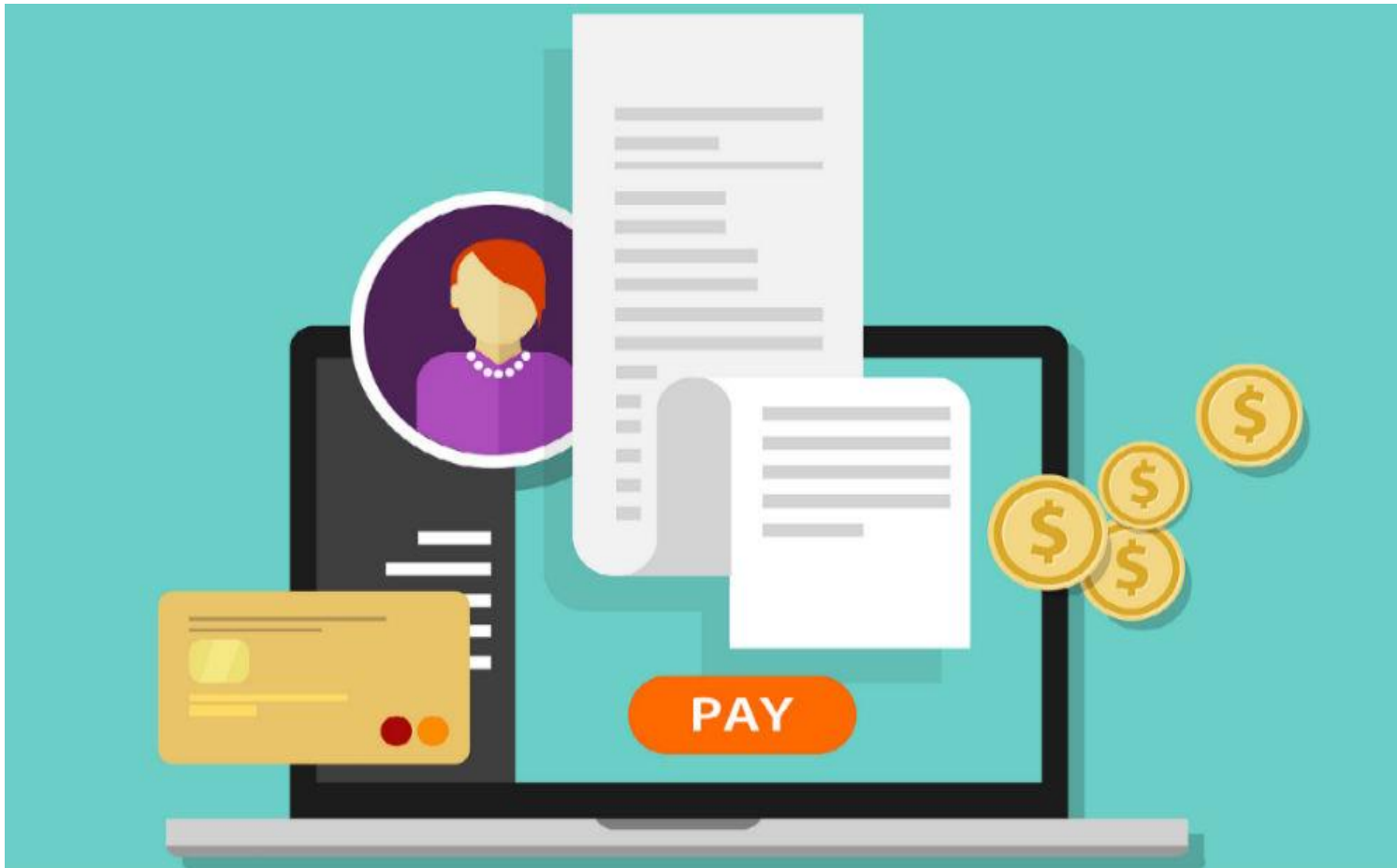
# Other consumer protection measures: Data protection



- 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



- 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 good 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

# Effective investigations: enforcement and the objectives of investigation

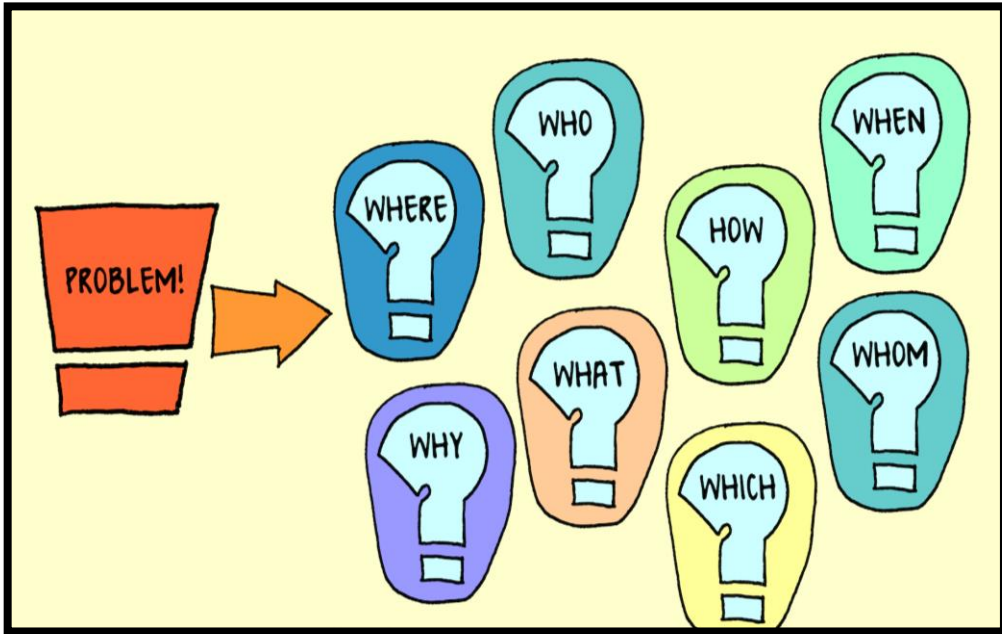


- To determine if an offense under the relevant consumer protection law has occurred.



- 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 advice before a decision is reached.

# Objectives of investigation: Rules of evidence



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

# Conduct of investigations by CPA: Procedures



- 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

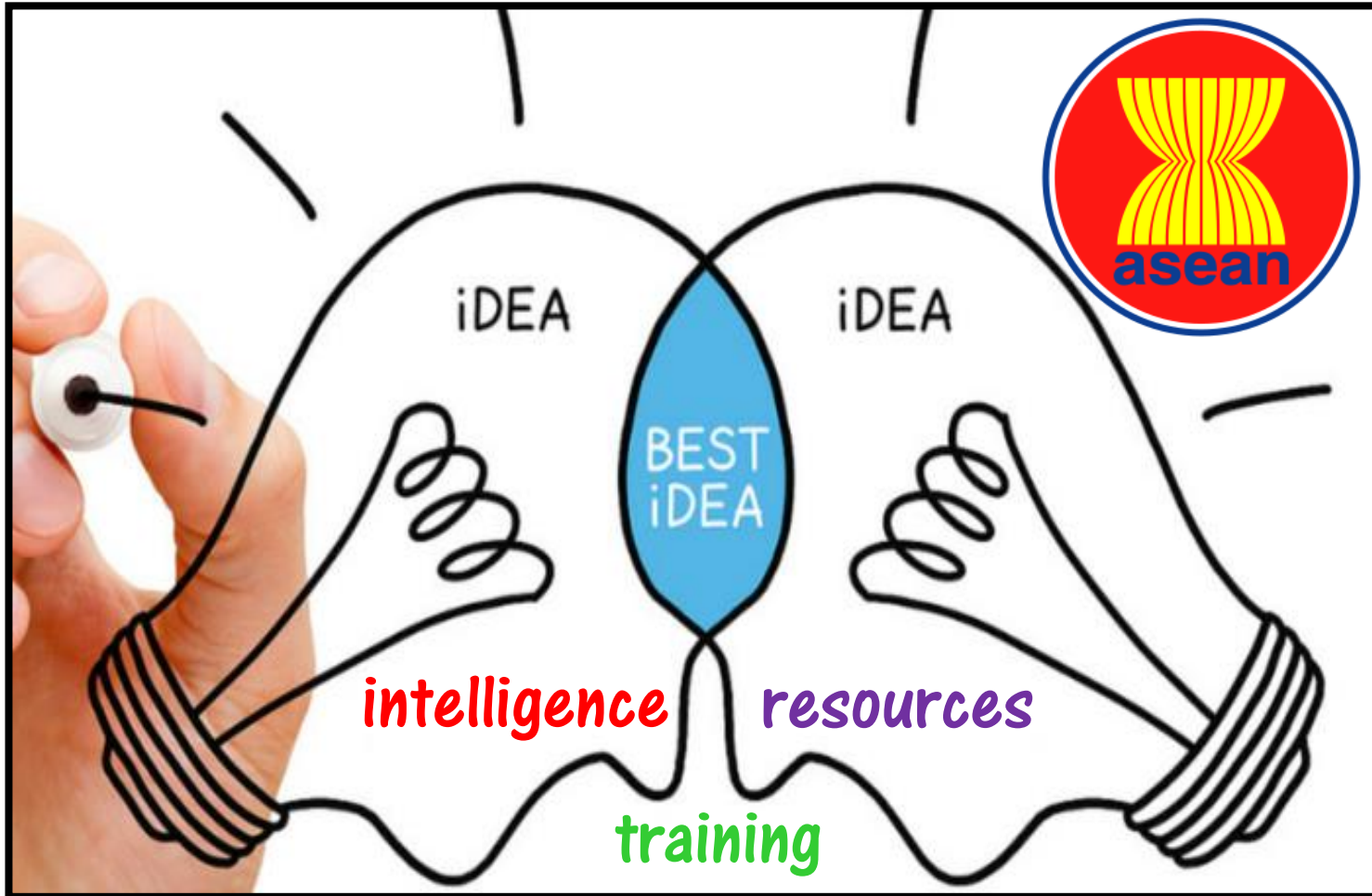
# Conduct of investigations by CPA: Procedures



Generalized life cycle of an investigation

- Trigger
- Preliminary or initial investigation
- Substantive investigation
- End game

# Interagency cooperation and data sharing amongst AMS



- 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

# Session assessment



- 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 models and their corresponding approaches/techniques



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.

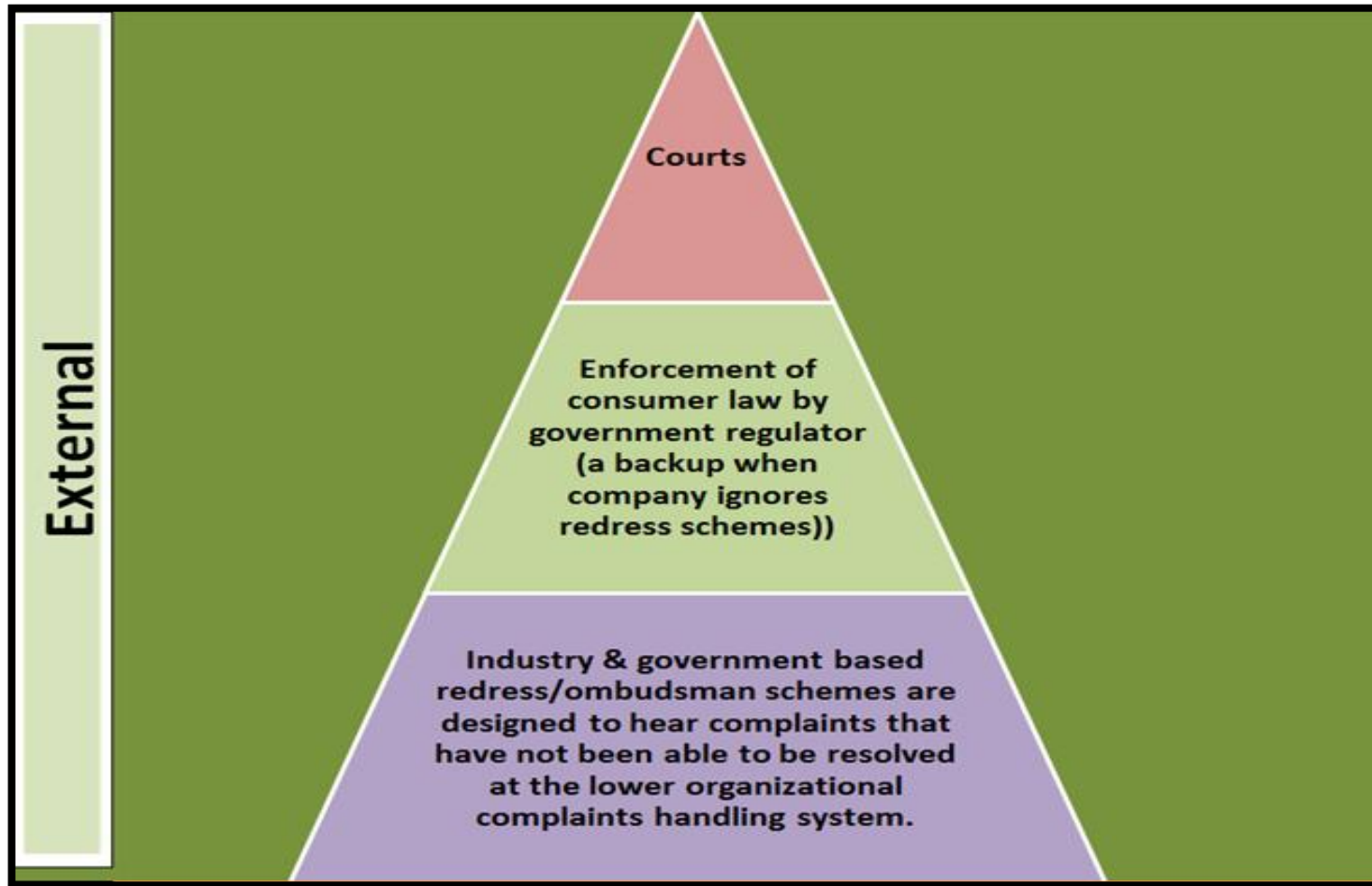
# Redress models and their corresponding approaches/techniques



## **Model 1: Internal complaint-handling system**

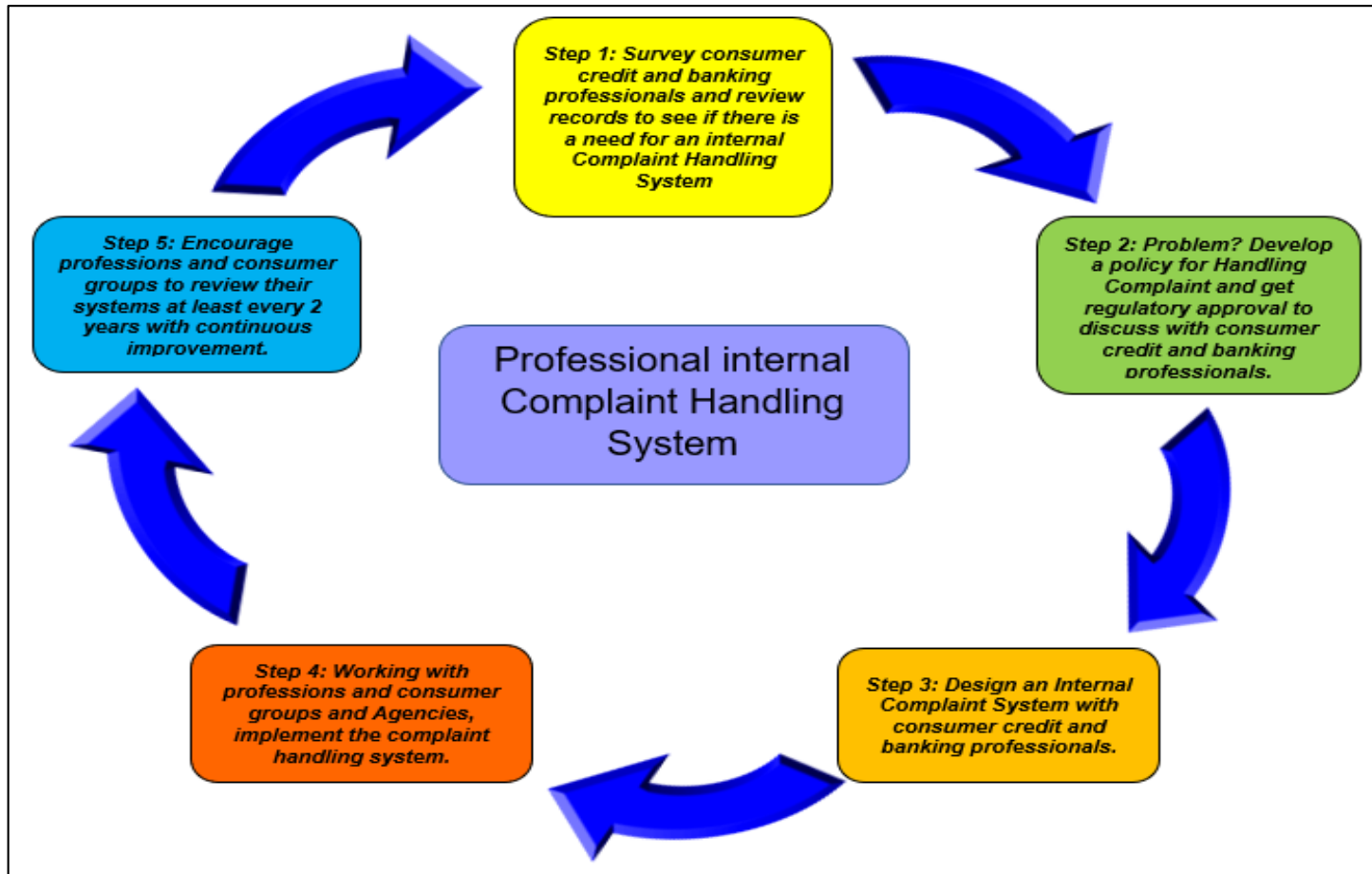
- Implemented by businesses and government agencies
- Embodies the principles and features of complaint handling
- Voluntary or required by law
- Appropriate for organizations of all sizes
- Guidance in implementation can be found in international Standard ISO 10002

# Complaint and redress pyramid



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

# Redress models and their corresponding approaches/techniques



## **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

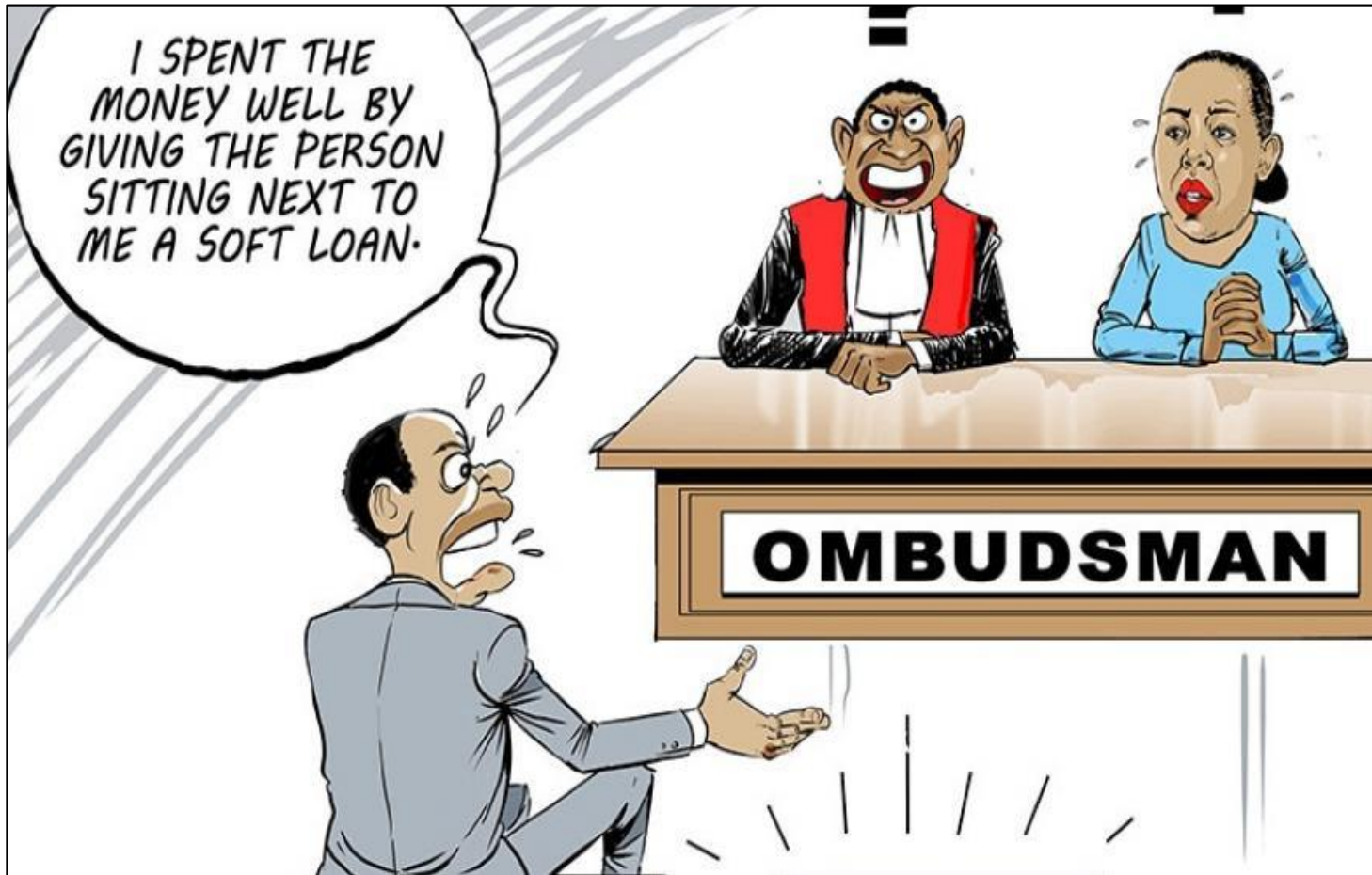
# Redress models and their corresponding approaches/techniques



## 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

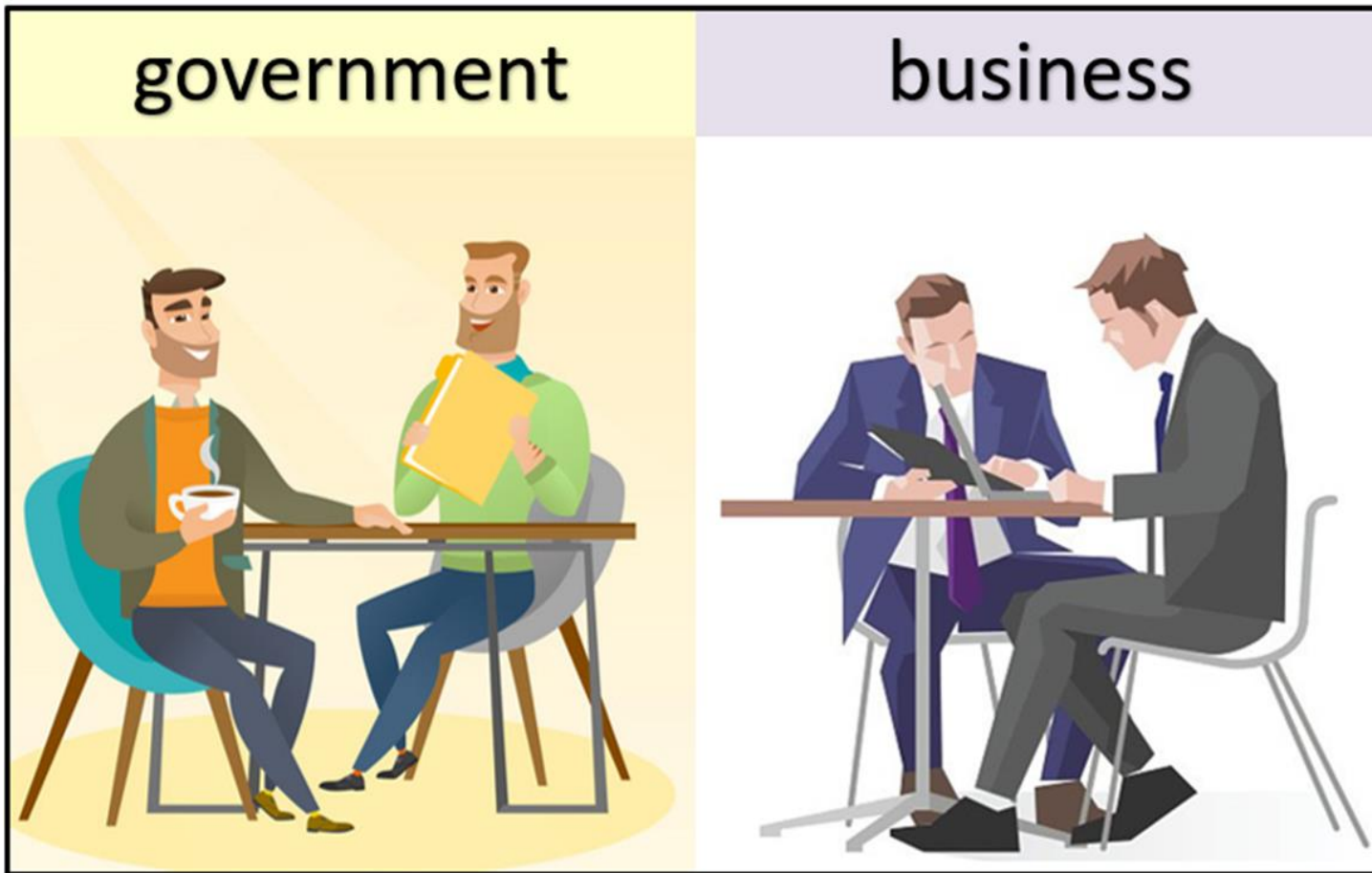
# Redress models and their corresponding approaches/techniques



## **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

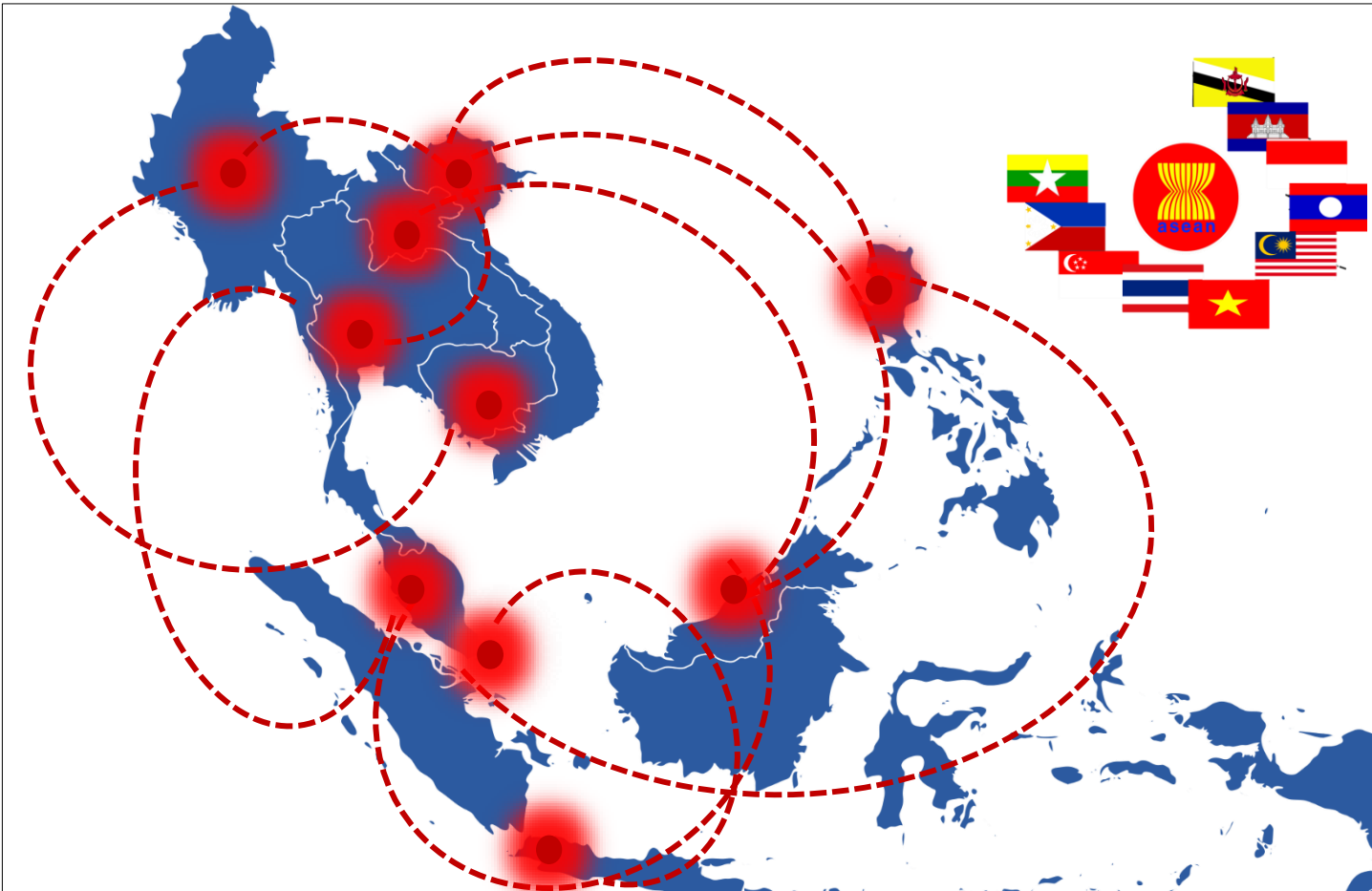
# Redress models and their corresponding approaches/techniques



## 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

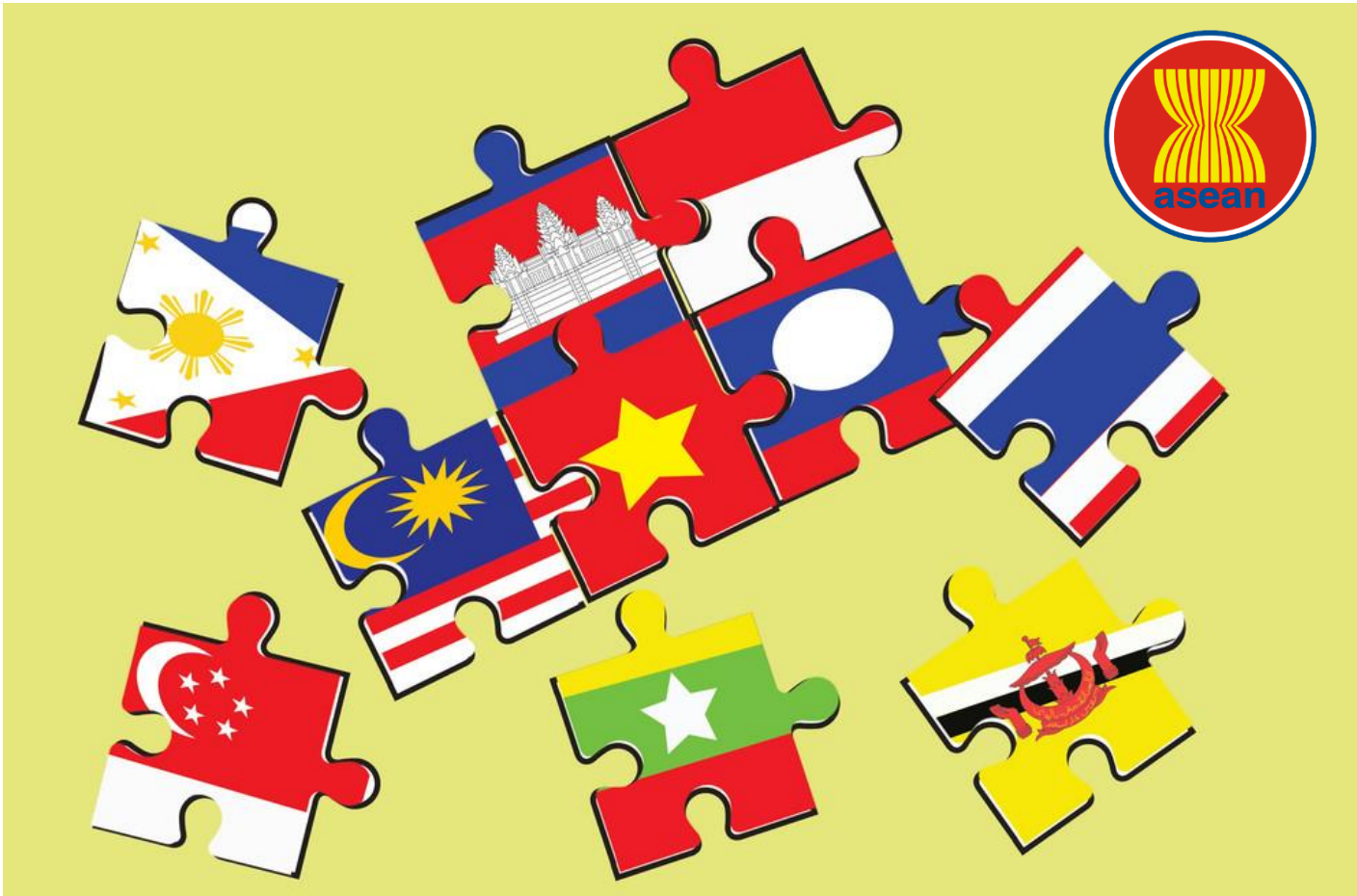
# Redress models and their corresponding approaches/techniques



## 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.

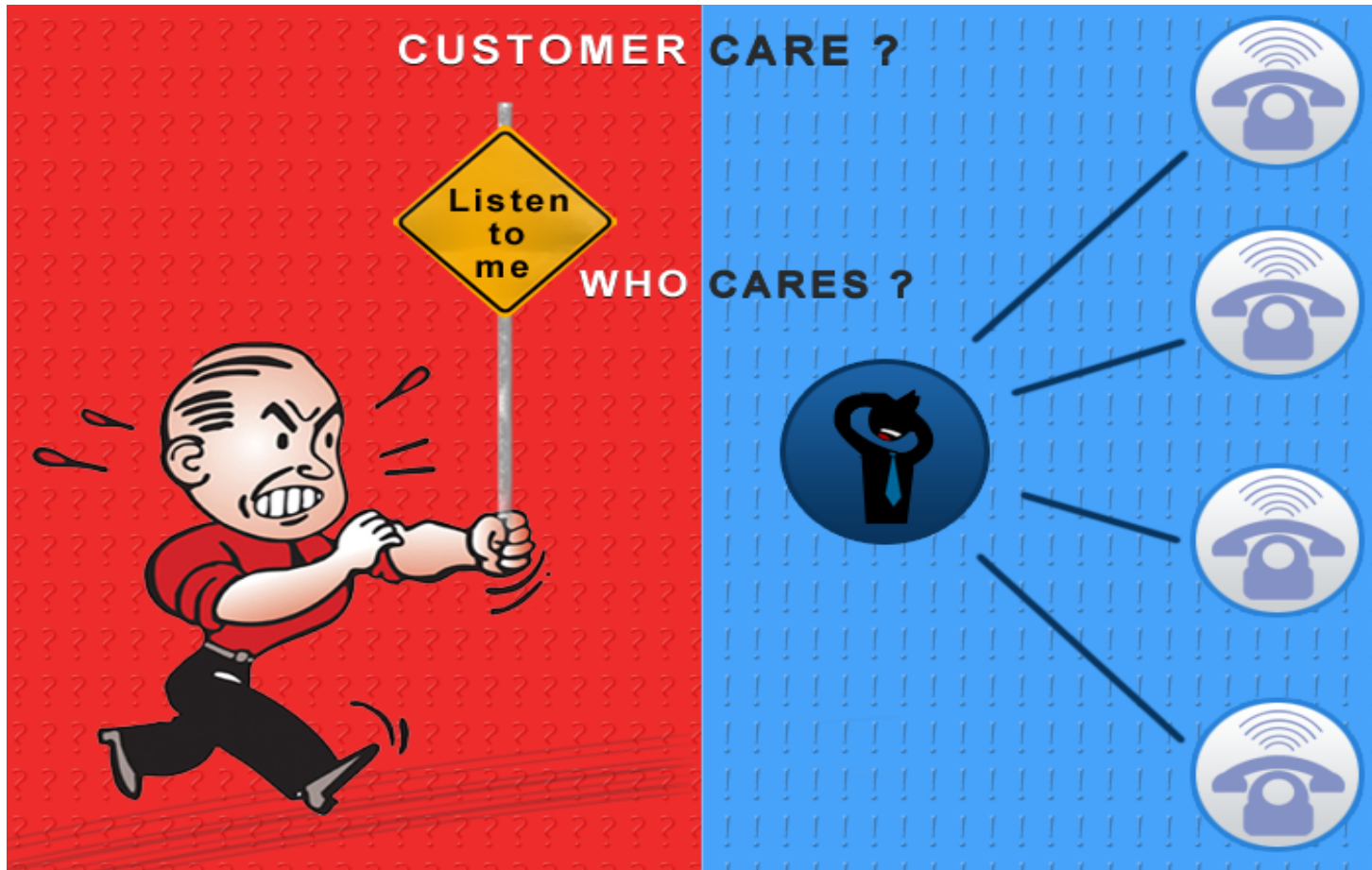
# Redress models and their corresponding approaches/techniques



Considerations to determine the stage of development for implementation:

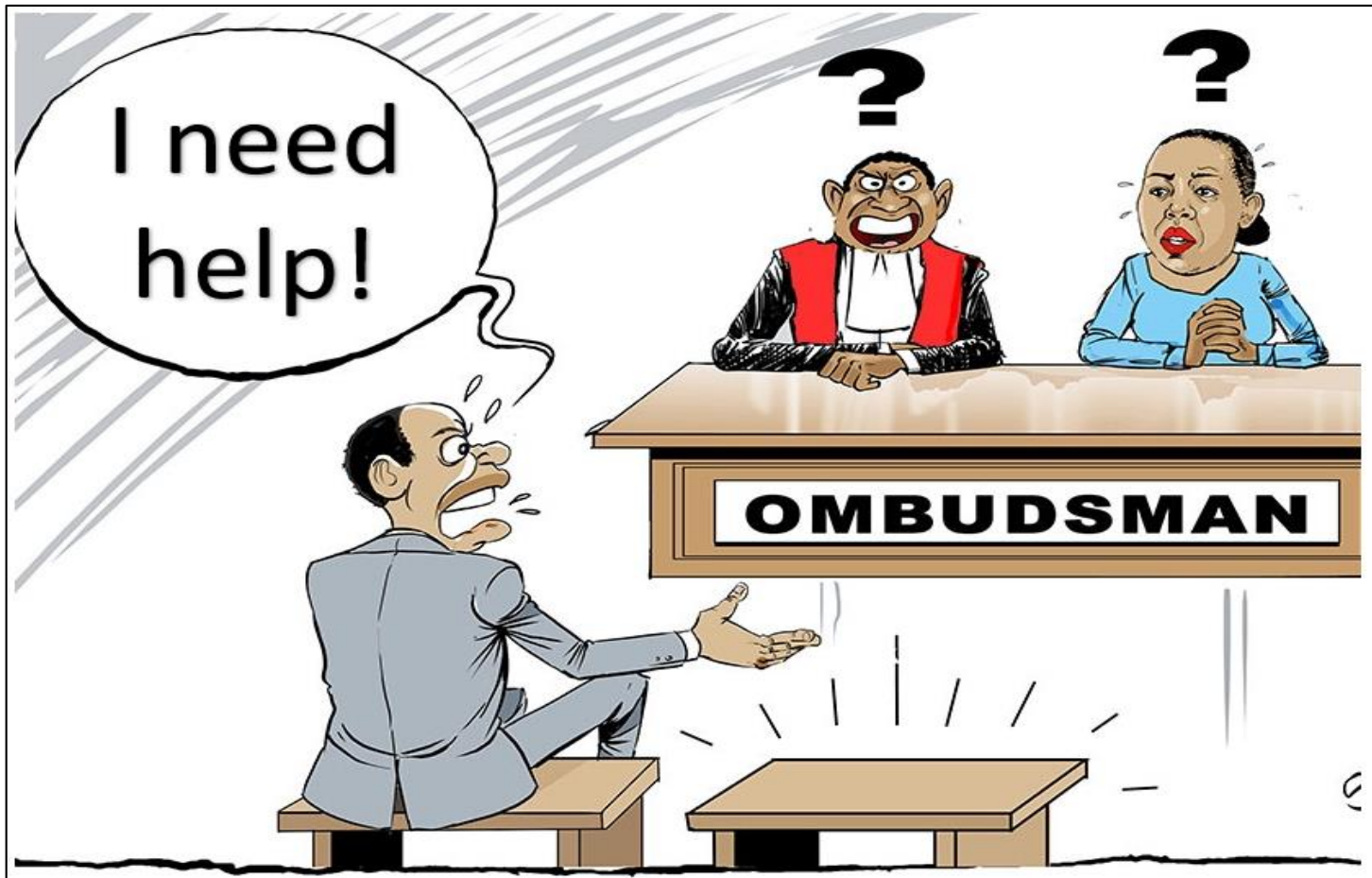
- Little or no measure for consumer redress.
- Basic professional admission/striking off provisions for gross negligence or dishonesty.

# 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

## **ALTERNATIVE DISPUTE**

*- Resolution -*



The seven models incorporate the approaches of:

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

# Management and Communication Tools of CPA



## **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

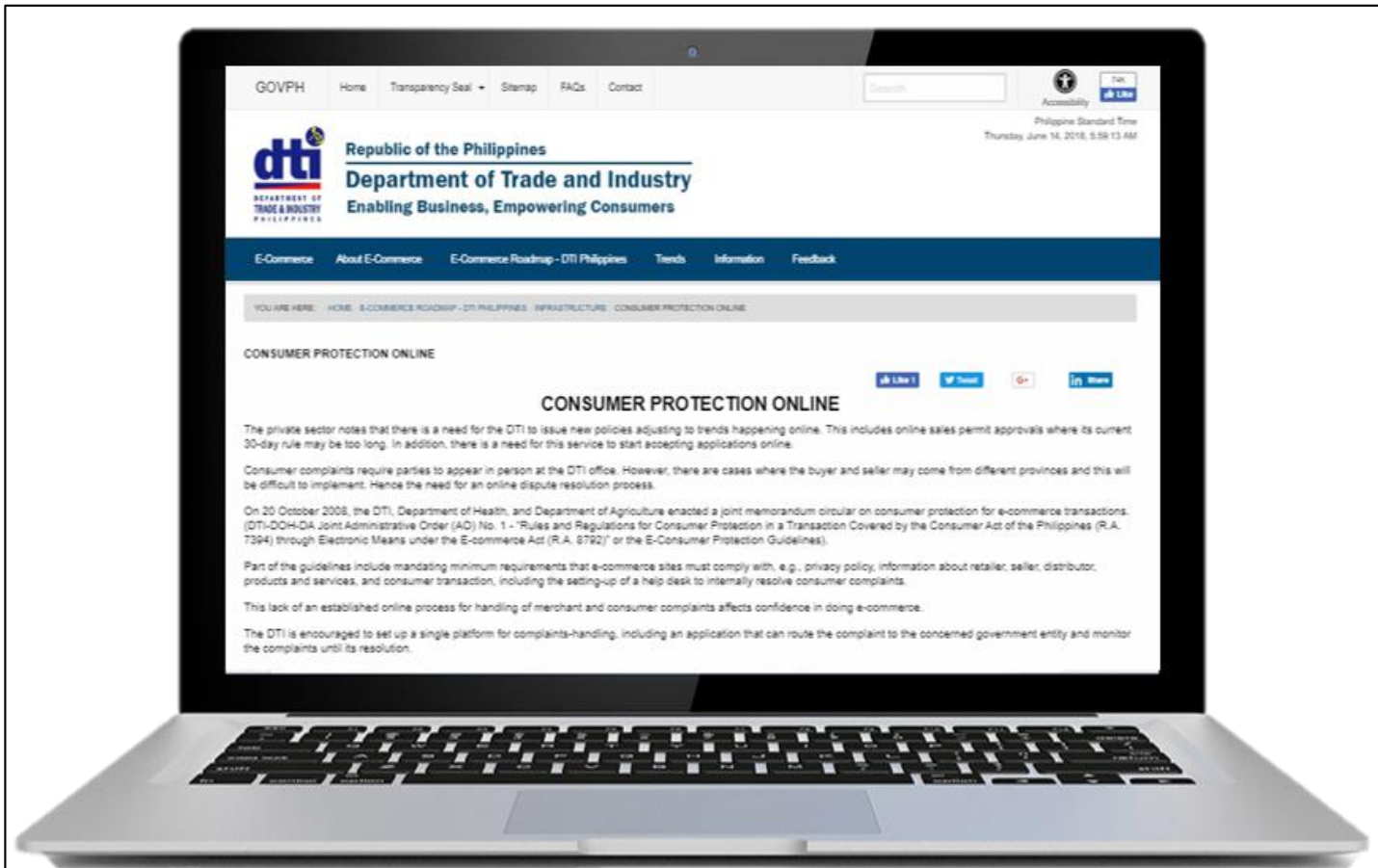
# Management and Communication Tools of CPA



## Consumer Awareness and Education

- Information dissemination targeting specific groups:
  - The general public
  - Women and homemakers
  - Students
  - Rural communities

# Management and Communication Tools of CPA



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

# Management and Communication Tools of CPA



- 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

# Management and Communication Tools of CPA

## Inter-Agency Collaboration



- 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?