



# FinCoNet

INTERNATIONAL FINANCIAL CONSUMER  
PROTECTION ORGANISATION

## Welcome

Dear FinCoNet Members,

I hope that you, your colleagues and your families are keeping well.

I am pleased to share with you this fourth and final 2021 edition of the FinCoNet newsletter, which includes articles provided from Australia, Russia, Ireland, the United Kingdom and Portugal.

The In Focus section of this Newsletter provides an overview of the FinCoNet Annual General Meeting, held in November 2021, which brought together representatives from nearly 50 jurisdictions around the world, as well as international organisations. It also presents the Netherlands AFM's 2022 edition of its Trend Monitor.

I hope you will find this edition of the FinCoNet newsletter an interesting and enjoyable read and I wish you all a very happy and healthy new year!

Maria Lúcia Leitão  
Chair, FinCoNet

## In this issue

This fourth 2021 issue of the FinCoNet Newsletter includes:

[COVID-19 has catalysed better outcomes for Australian consumers in hardship](#)

- ASIC has worked closely with the credit sector throughout the pandemic to address both industry challenges and consumer concerns stemming from COVID-19.

[Appropriateness testing for non-qualified investors in Russia and informing individuals on the consequences of their recognition as qualified investors](#)

- Appropriateness testing has become obligatory for non-qualified investors since 1 October 2021.

[Bank refunds required in Ireland where full service was not provided](#)

- In Ireland, all banks were required to implement Strong Customer Authentication (SCA) by the end of December 2020. This was in line with the timelines set out by the European Banking Authority (EBA) for the migration to SCA under the revised Payment Services Directive (PSD2) for e-commerce card-based payment transactions.

[FCA \(United Kingdom\) Guidance for firms on the fair treatment of vulnerable customers](#)

- Vulnerability Guidance, published in February 2021, sets out what firms should do to ensure they treat consumers in vulnerable circumstances fairly and meet the standards set by the FCA's Principles for Businesses. It intends to drive improvements in the treatment of customers and bring about a practical shift in the actions and behaviour of firms, which would enable this to happen.

[New rights for consumers on fees and charges in the Portuguese retail banking markets](#)

- The Portuguese legislator has approved a new set of rules, including prohibitions and limitations on the fees that may be levied on consumers for mortgages, consumer credit and payment services, which entered into force on 1 January 2021.

# In Focus

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## FinCoNet Annual General Meeting 2021

On 10-11 November 2021, FinCoNet held its Annual General Meeting, which brought together representatives from nearly 50 jurisdictions around the world, as well as international organisations. The meeting was held back-to-back with an International Seminar on Market Conduct Supervisors Responding to the Impacts of the COVID-19 Pandemic.

In her welcoming remarks, Ms. Maria Lúcia Leitão, Chair of FinCoNet said: “The COVID-19 pandemic has posed an unprecedented threat to financial consumers’ resilience and welfare. Business conduct supervisors have been called upon to help mitigate the impact of the COVID-19 pandemic on consumers, namely on borrowers and users of digital financial services. The role of market conduct supervisors was acknowledged. The recovery from the pandemic is coming in an uneven pace and with a considerable level of uncertainty. The exit from payment holidays brings us new challenges that we, as business conduct supervisors, need to keep facing together. It is time for supervisors to focus their attention on the management of pre-arrears and arrears situations, ensuring an adequate financial consumer protection framework and preventing foreclosure and judicial enforcement of debts. We shall also keep vigilant on the risks brought by the increased use of digital financial services and e-commerce platforms with direct access to credit. FinCoNet will remain truthful to its purpose as an international organisation of conduct supervisory authorities, promoting insightful discussions on relevant matters and always ready to strengthen even further international cooperation among its members and with other international organisations.”

FinCoNet Members shared experiences and advanced work on issues of high importance to market conduct supervisors worldwide. During a stimulating roundtable discussion, Members exchanged views about the risks and challenges they currently face, particularly in light of COVID-19. Notably, Members shared experiences from their jurisdictions relating to the increase in digitalisation, issues related to the regulatory and supervisory perimeter (prompted by the entry of new actors and new products) and regulatory and supervisory initiatives related to credit.

Mr. Chris Green, Vice-Chair of FinCoNet said: “Cooperation and information sharing is invaluable at this time of accelerated change which brings both opportunities and challenges for consumers and supervisors around the world. FinCoNet Members benefited significantly from timely discussions and presentations at this year’s AGM.”

FinCoNet Members welcomed the recent publication of two new reports: on [Supervisory Approaches to Consumers’ Creditworthiness Assessments](#) and [Financial Product Governance and Culture](#). Both reports set out best practices for market conduct supervisors around the world, drawn from the approaches of FinCoNet Members themselves, and add to the library of valuable supervisory resources provided by FinCoNet.

The FinCoNet AGM 2022 will be held November 2022, followed by an international seminar.

# In Focus

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## Netherlands Authority for the Financial Markets: Trend Monitor 2022

The Netherlands Authority for the Financial Markets (AFM) has set itself the goal of strengthening financial resilience and thereby achieving greater and more sustainable financial well-being in the Netherlands. The Trend Monitor addresses a number of themes where there is work to be done, some in the short term and some in the longer term. Every year, the AFM identifies the most important trends and related risks that will have an impact on the financial markets, in order to then further develop its supervision agenda. The Trend Monitor 2022 consists mainly of an overview of several reasonably clear-cut trends that will affect the financial sector and AFM's supervision in the coming years. These are foreseeable developments for which both the sector and its supervisory authority can prepare. The Trend Monitor hopes to contribute to this preparation by looking at the potential consequences of these developments.

The AFM 2022 Trend Monitor can be found [here](#).

# Current Issues Forum

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## COVID-19 has catalysed better outcomes for Australian consumers in hardship

Contributor: Australian Securities & Investments Commission (ASIC), Australia

ASIC has worked closely with the credit sector throughout the pandemic to address both industry challenges and consumer concerns stemming from COVID-19. In Australia, the pandemic has prompted some lenders to scrutinise their hardship processes, leading to improvements in consumer experience and outcomes.

### ASIC's work

Australian lenders assisted COVID-impacted consumers by deferring repayments on mortgages for 3 to 10 months. ASIC sought to drive fair and appropriate consumer outcomes in relation to how credit providers responded to consumers experiencing hardship during the pandemic by publishing expectations that lenders:

- provide clear and adequate information about the short- and longer-term impacts of repayment deferrals on a consumer's loan and repayments;
- tailor communication and support to each consumer's individual circumstances;
- make all reasonable efforts to work with consumers to keep them in their homes if that is in their best interests; and
- build continuous improvement into their processes.

ASIC worked closely with the Australian Prudential Regulation Authority (APRA) to ensure that the expectations of both agencies in relation to bank deferrals were consistent and aligned.

Alongside monitoring lenders, ASIC regularly met with consumer advocates and the external dispute resolution scheme. This helped ASIC to identify emerging issues that had the potential to generate poor consumer outcomes.

### COVID-19 industry response and improvement

ASIC observed that many lenders have taken steps to improve their financial hardship processes in response to the pandemic, including by:

- Making hardship assistance more accessible. For example, by increasing the channels through which consumers can request assistance.
- Reviewing communications to make them clearer and more concise.
- Streamlining hardship assessments, including reducing documentation requirements.
- Taking steps to better identify and respond to vulnerable consumers. The pandemic prompted some lenders to incorporate an assessment of whether their responses to consumers had been 'fair', as part of their assurance reviews.

ASIC has strongly encouraged lenders to embed new or modified processes that are generating better consumer outcomes into their business-as-usual activities.

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## Appropriateness testing for non-qualified investors in Russia and informing individuals on the consequences of their recognition as qualified investors

Contributor: Bank of Russia

Appropriateness testing has become obligatory for non-qualified investors since 1 October 2021. The test is conducted by brokers, forex-dealers and management companies of mutual investment funds in order to assess knowledge and experience of non-qualified investors before selling them complex financial products.

The test procedure is stipulated in the basic standard for protection of rights and interests of individuals and legal entities receiving financial services from financial institutions that are members of self-regulatory organisations (SROs).

The test includes two blocks of questions: “Self-assessment” and “Competencies”. The “Self-assessment” block includes 3 questions and the responses do not affect the test results. Brokers and management companies offer 4 questions in the “Knowledge” block. To pass the test, applicants have to answer all of them correctly. Forex-dealers offer 7 questions in the “Knowledge” block and investors get points for each correct answer, the number of points depends on the difficulty of the question. Investors have to score 13 points out of 15 to pass the test.

Testing is free. The standard allows an unlimited number of attempts to pass the test.

If an individual has passed the appropriateness test successfully, he/she does not have to pass it again unless the agreement (concluded with the person conducting the test) provides otherwise. It is sufficient to take one test by one broker, forex-dealer or management company on the financial instrument in question. If the investor changes the service provider, he/she will have to repeat the test.

Brokers and management companies may provide their customers with the opportunity to purchase a financial instrument even if the customer did not do well in the test (the “last word” option). The amount of such transaction at a broker will be limited to 100 000 RUB or to the amount of one round lot or one security if its price exceeds 100 000 RUB. If the investor purchases shares of a closed-end investment fund from a management company, then he/she can use the “last word” option to acquire one share amounting to no more than 100 000 RUB (or amounting to more than 100 000 RUB in accordance with the requirements of the Bank of Russia regulation).

If a broker or a management company provides the investor with the “last word” option, the investor can use it only under the following condition: the financial services provider gives him/her a warning on risks related to the corresponding transaction and that such a transaction is not advantageous for the investor and the investor in turn declares to the broker or the management company that he/she is ready to take the risks. Brokers and management companies are not obliged to grant the “last word” option to their clients and can stipulate in their rules that they do not fulfil the instructions of an investor who passed the appropriateness test.

Requirements for a broker to conduct the appropriateness test do not apply if the customer has concluded at least one relevant contract or at least one corresponding transaction by 1 October 2021 at his/her expense. Requirements for a broker to conduct an appropriateness test for a client do not apply if at the expense of the client before 1 October 2021 at least one relevant contract was concluded or at least one corresponding transaction was made.

Since 1 October 2021, brokers, forex-dealers or management companies when declaring an individual as a qualified investor are obliged to:

- Inform the individual about the consequences of such declaration;
- At least once a year inform the individual about his/her right to apply for removal from the qualified investors register.

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## Bank refunds required where full service was not provided

Contributor: Central Bank of Ireland

In Ireland, all banks were required to implement Strong Customer Authentication (SCA) by the end of December 2020. This was in line with the timelines set out by the European Banking Authority (EBA) for the migration to SCA under the revised Payment Services Directive (PSD2) for e-commerce card-based payment transactions. SCA is key to achieving the objective of the PSD2 of enhancing consumer protection, promoting innovation and improving the security of payment services across the European Union.

The Central Bank of Ireland (Central Bank) had extensive engagement with all banks in relation to their implementation programmes, and has imposed supervisory requirements as relevant. It became clear that one retail bank would not be in a position to implement e-commerce SCA requirements without a significant delay. [As the bank was significantly delayed in providing the full benefits of SCA to its customers](#), it was decided that further action was warranted.

On that basis, the Central Bank required that the bank may not charge a full fee to its customers for a service which is not fully in compliance with the relevant regulatory requirements. The bank was also required to write to affected customers to explain what had happened and to apologise for the delay. As a result of our intervention the bank is in the process of refunding a total of €3 million to its customers. Further detail was [reported in media coverage](#).

This supervisory action serves as an important reminder for the wider banking sector of our expectations that when new legislation is introduced, it should be implemented in regulated firms without delay. This action shows that where there is a material delay in implementing it, the Central Bank will not hesitate to take all necessary action to ensure consumers are treated fairly.

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## FCA Guidance for firms on the fair treatment of vulnerable customers

Contributor: Naina Mangtani, FCA, United Kingdom

### Guidance summary

The FCA wants consumers with characteristics of vulnerability to experience outcomes as good as those for other consumers and receive consistently fair treatment across the firms and sectors we regulate.

The FCA's vulnerability Guidance, published in February 2021, sets out what firms should do to ensure they treat consumers in vulnerable circumstances fairly and meet the standards set by our Principles for Businesses. It intends to drive improvements in the treatment of customers and bring about a practical shift in the actions and behaviour of firms, which would enable this to happen.

### Why the fair treatment of customers in vulnerable circumstances is important

Characteristics of vulnerability may mean that consumers are at greater risk of harm, particularly if things go wrong. Thus, the level of care that firms may need to take may be different from that for other consumers.

Our Guidance identifies 4 key drivers and associated characteristics, which may increase the risk of a consumer being vulnerable to harm, including:

- Health: health conditions or illnesses that affect the ability to carry out day-to-day tasks.
- Life events: major life events such as bereavement, job loss or relationship breakdown.
- Resilience: low ability to withstand financial or emotional shocks.
- Capability: low knowledge of financial matters or low confidence in managing money (financial capability).

The FCA Financial Lives Covid-19 panel survey found that as of October 2020 there were 27.7 million adults in the UK displaying one or more characteristics of vulnerability.

### Our expectations of firms

The FCA's Guidance sets out what action firms should take to meet their obligations under our Principles for Businesses. It supports our work to supervise and enforce against the standards set by our Principles.

The FCA's Guidance explains that to achieve good outcomes for consumers in vulnerable circumstances firms should:

1. Understand the needs of their target market / customer base.
2. Ensure their staff have the right skills and capability to recognise and respond to the needs of customers in vulnerable circumstances.
3. Respond to customer needs through product and service design, flexible customer service provision and communications.
4. Monitor and assess whether they are meeting and responding to the needs of customers with characteristics of vulnerability, and make improvements where this is not happening.

[Figure 1 in the Guidance](#) provides a summary of actions that firms should take to treat customers in vulnerable circumstances fairly.

The Guidance constitutes a practical framework and includes practical examples and case studies. It does not provide a checklist of required actions and will apply to firms in different ways due to the significant differences both across and within sectors. Firms will still need to use independent judgement on what the Guidance means for them, which may differ depending on a variety of factors. While firms are not bound to adopt or follow any of the specific actions described in the Guidance, they must still meet the standards established by our Principles and treat customers fairly.

Alongside the Guidance, we have a Memorandum of Understanding (MoU) with the Equality and Human Rights Commission (EHRC). This MoU sets out how we will co-operate and work with the EHRC on equalities issues, to help protect people in the markets we regulate. For example, by sharing information and expertise.

## Monitoring and evaluation

Under Principle 6, we expect firms to have management information (MI) or measures in place to test whether they are treating their consumers fairly including by delivering the six TCF consumer outcomes.

Whilst we do not require firms to report on specific metrics, firms should be able to demonstrate to us how they are monitoring outcomes for customers in vulnerable circumstances. This includes how their business models, culture, policies and processes result in the fair treatment of all consumers, including those in vulnerable circumstances.

## Next steps

In 2023-2024, the FCA plans to carry out a formal evaluation of firms' progress and the effectiveness of the Guidance and actions.

We are also consulting on "[A new Consumer Duty - feedback to CP21/13 and further consultation](#)" ([CP21/36](#)) which will be relevant. This proposes new rules which will require firms to focus on supporting and empowering their customers to make good financial decisions and avoiding foreseeable harm at every stage of the customer relationship. It aims to set a higher expectation for the standard of care that firms give all consumers, including those in vulnerable circumstances.

## New rights for consumers on fees and charges in the Portuguese retail banking markets

Contributor: Filipa Leal Alves and Carla Almeida Ferreira, Banco de Portugal

Firms in Portugal are generally free to set the price of retail banking products and services, as long as the fees charged correspond to services actually provided to the customer. However, the legislator has intervened, establishing limits and prohibitions on the charging of certain fees, whenever the protection of other public interests is at stake, such as consumer mobility, the prevention of arrears situations and over-indebtedness, the reduction of information asymmetry or financial inclusion.

With those objectives in mind, the Portuguese legislator has approved a new set of rules, including prohibitions and limitations on the fees that may be levied to consumers for mortgages, consumer credit and payment services, which entered into force on 1 January 2021. These rules added new layers to the pre-existing legal and regulatory framework regarding fees to financial consumers.

With a view to **promoting consumer mobility**, firms became prohibited from charging consumers fees to issue statements to cancel credit agreements, due to early repayment or following the term of the agreement. Firms are now also prevented from charging consumers fees to process instalments (or any other fees for the same purpose) for mortgages and consumer credit. This prohibition applies either to instalments that are processed by the lender (e.g. by direct debit on a current account held at the same firm) or by a third party on its behalf (e.g. by direct debit on a current account held in an institution other than the lender).

With the same goal, the Portuguese legislator established that firms may not refuse, in the context of the conclusion of mortgage agreements, to associate a current account held by the consumer with a firm other than the lender. Therefore, if a consumer intends to associate their home loan or mortgage credit to a current account held at another firm, neither can the lender oppose such a request nor refuse to enter into the credit agreement on that basis.

These new rules complement the existing ones that provide for the promotion of consumer mobility. In particular, regarding early repayment of mortgage credit agreements, the amount of the fee payable by the consumer is limited. It cannot exceed the following thresholds: (i) in agreements with a variable interest rate, the equivalent to 0.5% of the principal that is being repaid and (ii) in agreements with a fixed interest rate, the equivalent of 2% of the principal that is being repaid.

Likewise, firms are prevented from charging any fee in case of early repayment of home loans, if such early repayment is due to death, unemployment or professional travel of one of the borrowers. Early repayment fees are also prevented when the refund results from the execution of an insurance contract and when the credit agreement repaid is an overdraft facility collateralised by mortgage.

With regard to consumer credit, if the early repayment occurs in a period in which the nominal rate of the agreement is variable, no fee can be charged to consumers. If it occurs in a period in which the nominal rate of the credit agreement is fixed, consumers may have to pay a fee that cannot be more than: (i) 0.5% of the amount of principal repaid, if the period remaining between the early repayment date and the stipulated date for the end of the credit agreement is more than one year; and (ii) 0.25% of the amount of principal repaid, if the period remaining between the early repayment date and the

stipulated date for the end of the credit agreement is less than or equal to one year. In any case, the fee for early repayment may not exceed the amount corresponding to the interest that would be required for the period between the date of the early repayment and the date stipulated for the end of the fixed rate period.

As regards payment services, providers were already prevented from charging consumers any fees for the termination of the framework contract.

Contributing to the **prevention of arrears' situations and over-indebtedness**, at the beginning of 2021, the legislator extended the prohibition of charging fees for the renegotiation of the credit agreement to consumer credit, which had already been applicable to mortgages. Renegotiation of credit agreements encompasses the amendment of any contractual clauses by agreement between the lender and the borrower (irrespective of having financial nature or not).

Fees and charges in arrears' situations were already limited. For example, a recovery of arrears' fee may be charged only once, for each overdue instalment, and it may not exceed 4% of the instalment's amount, with a minimum value of 12.00 euros and a maximum of 150.00 euros. If the instalment exceeds 50,000.00 euros, the fee may not be above 0.5% of that instalment's amount.

In order to **reduce information asymmetry**, firms are now not allowed to charge consumers fees for the issuance of debt statements for mortgages and consumer credit agreements, when necessary to access social support or benefits and public services, up to the limit of six statements per year.

The charging of fees or other costs in association with the compliance with the legal and regulatory framework, including requirements for disclosure of information, was already forbidden.

The Portuguese legislator also **promoted the use of digital payments**, establishing that payment service providers are not allowed to charge fees for transactions carried out by consumers on payment applications operated by third parties, up to (i) 30 euros per transaction; (ii) 150 euros per month; and (iii) 25 transfers per month. If one of these limits is exceeded, the fee charged by the institution is limited to 0.2% (if a debit card is used) or 0.3% (if a credit card is used) of the value of the operation.

In addition to these 25 transactions, the consumers of basic bank accounts may benefit, without incurring extra costs, from more 5 transactions carried out on payment applications operated by third parties (up to a total number of 30), with an amount up to 30 euros each. This measure strengthens the basic bank account as an important instrument to **promote financial inclusion**.

The Banco de Portugal helped firms to implement the amendments to the legal framework, by issuing a set of understandings on the application of the new rules, through Circular Letter No CC/2021/00000016.

# Publications

## G20/OECD Report on Lessons Learnt and Effective Approaches to Protect Consumers and Support Financial Inclusion in the Context of COVID-19

This G20/OECD report considers the impact of the pandemic on financial consumers and financial inclusion, highlights measures to support financial inclusion and protect financial consumers, and identifies longer-term implications of the pandemic, lessons learnt and effective approaches to protecting and supporting consumers.

This report was prepared for the G20/OECD Task Force on Financial Consumer Protection and the Global Partnership on Financial Inclusion (GPFI), in support of the Italian Presidency of the G20. The report reflects inputs and guidance from GPFI member countries, Implementing Partners and Affiliated Partners, as well as Delegates of the G20/OECD Task Force on Financial Consumer Protection and other key stakeholders, including FinCoNet, via an extensive consultation process. The underlying data and evidence summarised in the report was collected via a questionnaire distributed in April 2021.

The effective approaches and lessons learnt presented in the report were an input for the development of the G20 Menu of Policy Options for digital financial literacy and financial consumer and MSME protection “Enhancing digital financial inclusion beyond the COVID-19 crisis”.

<https://www.oecd.org/daf/fin/financial-education/g20-oecd-report-on-financial-consumer-protection-and-financial-inclusion-in-the-context-of-covid-19.htm>

## CGAP: The Evolving Nature and Scale of Consumer Risks in Digital Finance

CGAP launched a global study to understand the evolving nature and scale of DFS consumer risks since 2015. Based on a review of literature and discussions with over 70 global, regional and country experts, CGAP has identified over 60 consumer risks, some of which have evidently increased in scale over the past few years. The most notable new risks relate to data misuses and fraud.

This blog publication summarises the research.

<https://www.cgap.org/blog/evolving-nature-and-scale-consumer-risks-digital-finance>

# About FinCoNet

Established in 2013, FinCoNet is an international organisation of supervisory authorities responsible for financial consumer protection. It is a Member-based organisation set up as a not-for-profit association under French law.

FinCoNet promotes sound market conduct and strong consumer protection through efficient and effective financial market conduct supervision.

Each Member of FinCoNet has responsibility for and an interest in protecting the interests of consumers of financial services. FinCoNet seeks to enhance the protection of consumers, and to strengthen consumer confidence by promoting robust and effective supervisory standards and practices, and sharing best practices among supervisors. It also seeks to promote fair and transparent market practises and clear disclosure to consumers of financial services.

Visit our website at [www.finconet.org/](http://www.finconet.org/)

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