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Welcome to the FinCoNet newsletter

This year's FinCoNet International Seminar, held back to back with the FinCoNet Annual General Meeting, will explore the topic of *Creditworthiness Assessments: current issues and challenges*.

The Seminar will take place on 13 November 2020 from 12.00-14.00 Central European Time, via video connection (Zoom) due to COVID-19 restrictions.

The draft Agenda for the Seminar can be found [here](#)

As you will see, the Seminar will comprise sessions exploring supervisory approaches to creditworthiness assessments, the use of AI in assessing creditworthiness, developments and challenges regarding creditworthiness assessments, including in light of COVID-19.

Should you wish to attend the Seminar, please contact the FinCoNet Secretariat [sally.day-hanotiaux@oecd.org]

We look forward to welcoming you to the FinCoNet International Seminar in November.

In focus

Responses to COVID-19: update on FinCoNet activities and continued support for Members

Jurisdictions all around the world continue to endure the impacts of the COVID-19 pandemic, with many consumers experiencing financial difficulty as a result of lost or reduced income or other lockdown impacts. In these times, financial consumer protection issues are extremely important. Since the outbreak of the pandemic, market conduct supervisors right around the world have been working with governments, regulators, the financial services industry and consumer groups to implement and oversee various measures in their jurisdiction to respond to the impact of COVID-19 and protect financial consumers.

See the detailed update on FinCoNet activities and support for Members at the Article on page 4 of this Newsletter.

CGAP/Consumers International Event: Strengthening the Collective Voice of Consumers in the Financial Sector: Webinar Recording

On 9 July 2020, CGAP partnered with Consumers International, the global membership organization of consumer groups, to explore the current and potential status of consumer organizations in engaging in consumer financial protection. Consumers International conducted research through surveys, interviews and a virtual workshop bringing together consumer associations in high- and low-income countries. In parallel, CGAP researched mechanisms regulators are using to proactively engage with consumer representatives to support a more inclusive policymaking process. CGAP, in partnership with Consumers International recently held a webinar to share what we have learned to date and discuss the way forward.

Link: <https://www.cgap.org/events/strengthening-collective-voice-consumers-financial-sector>

CGAP Publication: Making Consumer Protection Regulation More Customer-Centric, June 2020

Customer outcomes approaches are emerging as a promising consumer protection paradigm where the regulatory focus shifts from provider compliance with prescriptive check-the-box rules to customer results or outcomes achieved through provider actions. This shift is highly relevant to emerging markets where unserved and underserved customers are targeted with a range of digital financial services that may expose them to new risks, and where vulnerable customers are disproportionately affected by global crises. This paper builds on desk research of policy documents by global bodies and regulatory frameworks in 10 countries and aims to help national, regional, and global authorities make financial consumer protection more effective.

Link: <https://www.cgap.org/research/publication/making-consumer-protection-regulation-more-customer-centric>

Current issues forum

Responses to COVID-19: update on FinCoNet activities and continued support for Members

Contributor: FinCoNet Secretariat

Jurisdictions all around the world continue to endure the impacts of the COVID-19 pandemic, with many consumers experiencing financial difficulty as a result of lost or reduced income or other lockdown impacts. In these times, financial consumer protection issues are extremely important. Since the outbreak of the pandemic, market conduct supervisors right around the world have been working with governments, regulators, the financial services industry and consumer groups to implement and oversee various measures in their jurisdiction to respond to the impact of COVID-19 and protect financial consumers.

The FinCoNet Governing Council has worked closely with the OECD Secretariat in undertaking activities to support FinCoNet Members through sharing of information about COVID-19 responses. We have done this in collaboration with the G20/OECD Task Force, which comprises policy makers and regulators, to ensure coordination and efficient information sharing. The purpose is so that we can all benefit from each other's experience and insight.

Special Session meeting of the Task Force and FinCoNet re COVID-19

In June 2020, the OECD Secretariat convened a second Special Session meeting of FinCoNet and the Task Force. Members provided updates on developments in their jurisdiction and shared initial thoughts about longer term implications. There was broad acknowledgement that many short-term response measures had been swiftly implemented, and in many cases these

measures had been extended or were likely to be extended. Many Members also noted the importance of carefully considering appropriate exit strategies and the effect this will have on consumers is now being recognised and worked through.

Key themes from the interventions included:

- Impact of increased unemployment and under-employment
 - One of the biggest impacts of COVID-19 has been a rise in unemployment and under-employment rates in many jurisdictions, with associated economic impacts for households.
- Expiry of economic support measures
 - The expiry of economic support prompts concerns regarding the longer-term economic effects of the pandemic on the financial position of individuals, households and small business.
- Credit moratoria / Loan deferrals
 - Many Members have implemented some form of credit moratoria or loan deferrals, the majority relating to home lending. While such measures give short term relief to borrowers, there are also concerns about continuing or providing

further loan deferrals which could cause consumers greater harm depending on their ability to recover economically. Related to this is the question of whether loans may ultimately need to be restructured to allow borrowers a way of repaying that they can afford at the end of government assistance

- Debt counselling services
 - Most Members spoke about the importance and increased focus on debt counselling services to assist consumers in this difficult and fast changing environment.
- Frauds and scams
 - Members are looking to alleviate the impact of scams by close monitoring of advertising, financial literacy and taking enforcement action where appropriate. Many highlighted that effective action in this area is highly challenging for supervisors.
 - Frauds involving identify theft such a phishing have been a particular problem in some jurisdictions as scammers have attempted to gain access to consumers' bank accounts or exploit support payments available to individuals.
- Digitalisation and digital payments
 - One of the implications arising from responses to the pandemic has been the increase in support to facilitate digital options. For example, many jurisdictions have increased payment

thresholds for contactless payments to facilitate digitalisation.

- Insurance
 - There has been an increased focus on claims handling practices in many jurisdictions, which have been collecting data and monitoring this area. Some jurisdictions shared concerns about the potential for underinsurance and consumers being unable to pay their premiums.
- Consumer information / financial literacy
 - Consumer information and financial literacy efforts have been important in providing services where consumers can seek information to assist consumers to make informed decisions and supporting financial resilience.

Questionnaire on FCP responses re COVID-19

Since late March 2020, the OECD Secretariat has been gathering data about jurisdictions' responses to COVID-19 via a comprehensive Questionnaire. The Questionnaire covers all aspects of consumer finances, including credit, banking and payments, insurance, investments and pensions.

The objective is to facilitate information sharing and inform a holistic view of the global response in terms of financial consumer protection. At the Special Session meeting in June, the OECD Secretariat provided a report of the preliminary analysis of the responses received from jurisdictions to the Questionnaire on FCP measures re COVID-19, which is available on the [FinCoNet Community site](#).

Thank you to those FinCoNet Members who have participated in the Questionnaire. Members were encouraged to provide updates to their responses to the Questionnaire from June-September 2020. An updated file of responses to the Questionnaire is available on the FinCoNet Community site. Members can consult the file of responses at any time to see what different jurisdictions are doing.

Links to FinCoNet Members' information and resources

Finally, as another way to support information sharing between FinCoNet Members, links to information and resources produced by FinCoNet Members for consumers or industry relating to COVID-19 measures are available on the [FinCoNet website](#). Any Member who wishes to update links or information is welcome to do so by sending the updated link to the OECD Secretariat

The Banco de Portugal regulates information transparency on digital channels reinforcing consumer protection during the COVID-19 pandemic

Contributors: Carla Ferreira, Lina Fernandes, Banco de Portugal

The Banco de Portugal has been monitoring institutions selling retail banking products and services through digital channels, so as to ensure compliance with the applicable regulatory framework regardless of the channel used (principle of technological neutrality).

Since early 2018, the Banco de Portugal has requested institutions providing customers with access to digital channels to contract consumer credit products to submit information on the specific features of the process, the security mechanisms implemented and the characteristics of the credit products in question¹ (Circular Letter No CC/2018/00000004²). This was complemented by off-site inspections, as

well as live demonstrations of the contracting processes at the central bank's premises, through which the information provided was assessed and the institutions' conduct was verified. During this process, the supervisor has recommended institutions to adopt measures to ensure compliance with information and assistance duties and to guarantee the security of consumer credit sale processes.

Based on the best practice addressed to the supervised institutions and taking into consideration the European Banking Authority's Opinion on disclosure to consumers of banking services through

¹ 'Banco de Portugal requests information on consumer credit products via digital channels – a new oversight tool', FinCoNet Newsletter, Issue 3, September 2018, available at http://www.finconet.org/FinCoNet-Newsletter-September_2018.pdf.

² Circular Letter No CC/2018/00000004 can be found at https://clientebancario.bportugal.pt/sites/default/files/relacionados/noticia/CC4-2018_EN.pdf.

² <https://eba.europa.eu/eba-publishes-opinion-disclosure-consumers-buying-financial-services-through-digital-channels>.

digital means under Directive 2002/65/EC,³ the Banco de Portugal issued in the beginning of July 2020 a set of recommendations on how institutions should comply with their duties when selling retail banking products and services through digital channels (Circular Letter No CC/2020/00000044⁴).

The preparation of these recommendations, which included their submission to public consultation,⁵ was concluded during the COVID-19 pandemic, whose effects, namely the need to adopt health measures, such as lockdown and social distancing measures, boosted the use of digital channels to contract retail banking products and services via digital channels. Although the Banco de Portugal was already planning on issuing this best practice, it became even more relevant in the 'new normal' with COVID-19, thus enabling it to conduct a more efficient and adequate supervision of the institutions selling banking products and services in the digital context.

With these recommendations, the Banco de Portugal intends to ensure that bank customers are provided with complete and appropriate information on the retail banking products or services, insofar as they are sold through digital channels, so as to mitigate behavioural biases. At the same time, the issuance of these recommendations to the industry makes it possible for institutions to know in advance the guidelines that they should follow when designing their selling processes through digital channels, thereby promoting a level playing field and rendering the corresponding oversight swifter.

³ <https://eba.europa.eu/eba-publishes-opinion-disclosure-consumers-buying-financial-services-through-digital-channels>.

⁴ Circular Letter No CC/2020/00000044 can be found at https://clientebancario.bportugal.pt/sites/default/files/elacionados/noticia/CircularLetter44_2020.pdf.

In the Circular Letter, the Banco de Portugal addresses, in a comprehensive way, a set of general recommendations that should be observed throughout the selling process, as well as specific recommendations organised according to the four stages identified: general pre-contractual stage, customised pre-contractual stage, contract conclusion stage and post-sale stage.

Accordingly, general recommendations establish, for example, the need for institutions to ensure that:

- the font size, colour and images displayed on the screen of the marketing platform facilitate readability, and that information is prominently displayed and easily understood;
- the colours or images used do not make it difficult for bank customers to read the information;
- the use of hyperlinks does not fragment information about the banking product or service;
- when a brand is used, that brand is accompanied by the identification, with a similar prominence, of the institution responsible for the product or service.

According to the Circular Letter, when providing pre-contractual information that is not specific to the customer (general pre-contractual stage), institutions should ensure that:

- information on the basic features of the banking product or service is presented on the main screen or webpage of the marketing platform,

⁵ The Banco de Portugal publicly consulted on the draft proposal of Circular Letter No CC/2018/00000004 between 16 March 2020 and 30 April 2020, whose report can be found at https://clientebancario.bportugal.pt/sites/default/files/elacionados/noticia/RelatorioCP2-2020_EN.pdf.

using larger characters, information boxes, pop-ups, simulations, overviews or other similar means;

- general information about the banking product or service is easily accessible and can be downloaded by bank customers;
- bank customers have access to information on the means available to them for filing a complaint and resorting to alternative dispute resolution procedures in a dedicated space on the marketing platform.

As regards the customised pre-contractual stage, during which institutions provide pre-contractual information based on a client's specific data, the Circular Letter sets out that:

- information on the banking product or service being marketed should be presented separately from information about an additional or ancillary product or service;
- mandatory information documents must be compulsorily scrolled down, followed by the confirmation of their having been read;
- pre-ticked boxes or graphic elements, such as font size, colour, icons and images, which lead the customer to choose a certain option, should not be used.

On the contract conclusion stage, the Circular Letter stresses the importance of ensuring:

- the adoption of robust methods to confirm the willingness of bank customers to purchase the banking product or service, such as the qualified electronic signature or at least two distinct elements, under the categories of knowledge, possession and inherence;
- that bank customers are informed in advance about the available

methods to confirm their willingness to purchase the banking product or service.

Following the conclusion of the contract, institutions are recommended to guarantee:

- the existence of a dedicated and easily accessible space for bank customers to exercise their right of withdrawal and early repayment on the product's marketing platform;
- the use of instant communication channels, such as email, short message service (SMS) or push notifications to alert the bank customer to the availability of important communications in the bank customer's private area – when deemed appropriate by institutions and after prior consent of the bank customer.

The Banco de Portugal will continue to monitor and oversee institutions' practices and compliance with the legal and regulatory framework in place when selling banking products and services through digital channels and will periodically publish the results of its assessments in the Banking Conduct Supervision Reports.

Consumers accept more risk and lower returns on sustainable investments, AFM study shows

Contributor: AFM, Netherlands

- Experiments demonstrate that retail investors accept lower returns and more risk if investments are sustainable.
- Supervision of sustainable investments and marketing with sustainability claims is important precisely because sustainability sells.

Calls from society for sustainable investing are growing ever louder. But to what extent are retail investors willing to accept more risk or a lower return in exchange for a sustainable investment? Online experiments conducted by the Dutch Authority for the Financial Markets (AFM) provide insight into that question. The full report was published in September 2020 and can be [read here](#).

Academic studies suggest that sustainable aspects influence investment choices. The AFM therefore wants to obtain insight into the way in which information on sustainability is packaged and what the effect of marketing sustainable products is on consumer investment behaviour. 'Consumers and other customers must be properly informed and advised on sustainability factors to support their financial decisions. They will receive a product that is appropriate for their needs' is one of the principles underlying the AFM's supervision of the sustainability principles.

Two experiments

In the two experiments conducted with retail investors, the AFM investigated what the relative economic importance is of the generic characteristic 'sustainable' in relation to the risk or expected return on the investment. The experiments were carried out with online panels and focused on intentions rather than on actual trading

behaviour. Respondents were shown a fictitious stylised advertisement, one half with greater emphasis on sustainability ('Investing for a sustainable world') and the other half without that specific focus ('Investing around the world'). The non-sustainable condition even emphasises the positive aspect of spreading the investment. In addition, the expected return or risk class varied. The figure below shows examples of the advertisements used.



The respondents expressed their preference by allocating €10,000 across these two investments. If all the other characteristics are otherwise identical, there is a significant preference for sustainable investing. For the four groups in which the risk and return were otherwise identical, the investors allocated between €6,283 and €6,973 on average to the sustainable variant (the four dark bars in Figure 2).

If the non-sustainable offer has an expected 6% return and the sustainable offer a 4% return, the allocation shifts and the average investment in the sustainable offer is €4,458. If the risk classification for the sustainable investment is one category higher – i.e. with a higher risk – the allocation of the €10,000 shifts to a fifty-fifty allocation. In the case of a sustainable offer in risk category 5 and a non-sustainable offer in risk class 4, the average investment amounted to €4,900 (or 49%), in the sustainable variant.

Investors invest sustainably, even if the return is lower or the risk is higher

Amount invested in sustainable variant (from a total of €10,000)

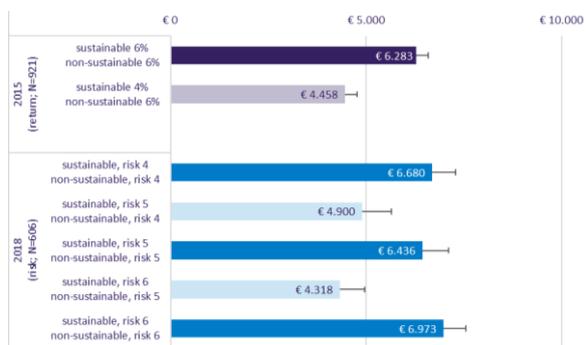


Figure 2: Sustainable versus non-sustainable or 'regular' investment. In the dark bars, the risk and return were identical between the sustainable and the regular investment. In the light-purple bar, the return on the sustainable investment is lower. In the light-blue bars, the risk is higher for the sustainable investment. The amounts are averages with a 95% confidence level.

Sustainability sells

In conclusion, the sustainable aspect of an investment appears to make a sustainable

investment as attractive on average as a regular investment if the expected return on a regular investment is a couple percentage points higher. The same applies to risk: based on the legally required risk categorisation of seven categories of risk, an investment without any emphasis on sustainability that is graded one risk category lower is approximately as attractive as the sustainable investment carrying a higher risk.

Given that customers are willing to sacrifice some returns in order to invest sustainably, it is important that products and services labelled as 'sustainable' actually do have a sustainable impact. 'Greenwashing' must be prevented.

Customers are willing to sacrifice some returns in order to invest sustainably. In a nutshell: 'Sustainability sells'. Market parties, legislators and the supervisory authorities must take this into consideration to ensure the proper functioning of the developing market for sustainable investing.

[Full report](#) | More information:
Guy.Puylaert@afm.nl and
Wilde.Zijlstra@afm.nl.

Federal Law on protecting non-qualified retail investors

Contributor: Bank of Russia

On 31 July 2020 Federal Law No. 306-FZ was adopted, establishing a framework for the comprehensive protection of retail investors' rights and interests. This will help newcomers in the financial market settle transactions accounting for their needs, knowledge, experience, skills, and financial standing.

The law stipulates two categories of investors – qualified and non-qualified.

Qualified investors can continue their financial market operations as usual.

As regards non-qualified investors, without required testing, they will only be entitled to

purchase the simplest and lowest-risk instruments. These instruments include, for instance, shares put on quotation lists, government securities of the Russian Federation (federal government bonds), bonds of Russian issuers having a certain credit rating, investment units of exchange-traded, open-end and interval unit investment funds, and foreign securities meeting established criteria (provided that information is disclosed).

Non-qualified investors willing to acquire other instruments, conduct margin transactions and financial derivative transactions will be obliged to undergo a

test for the understanding of respective instruments and risks inherent therein. Such testing will be carried out by professional market participants. Should non-qualified investors fail the test, they will be allowed to resort to the 'last word' principle, that is, to settle a desired transaction to an amount of no more than 100,000 rubles (1358.69 USD¹) (or to an amount of one lot, if its price exceeds 100,000 rubles or 1358.69 USD).

Moreover, non-qualified investors shall be notified of potential risks under any circumstances.

Professional market participants shall arrange the testing according to the rules that will be stipulated in the basic standards on the protection of investors' rights. The requirements for such basic standards are to be set by the Bank of Russia.

Should professional market participants fail to comply with the procedure, they will be obliged to reimburse losses and expenses incurred by investors, and, if needed, to buy out the financial instruments purchased by their clients.

Those qualified investors who received this status before the effective date of the law will preserve their status. Moreover, testing is not mandatory if an investor already has the experience of relevant transactions.

After its approval, the law will become effective on 1 April 2022. Therefore, financial market participants will have sufficient time to get prepared for the new regulation.

New Conduct Standard of Banks – South Africa

Contributor: Financial Sector Conduct Authority, South Africa

The Financial Sector Conduct Authority (FSCA) was established in terms of the Financial Sector Regulation Act No. 9 of 2017 (FSR Act). It became operational from 1 April 2018. The FSCA is responsible for market conduct regulation and supervision of the financial sector.

The FSCA's vision is "to ensure an efficient financial sector where customers are informed and treated fairly" and its mission is to "ensure a fair and stable financial market, where consumers are informed and protected, and where those that jeopardise the financial well-being of consumers are held accountable."

The objectives of the FSCA are to enhance and support the efficiency and integrity of financial markets; assist in maintaining financial stability; promote fair customer treatment by financial institutions; and

provide financial education and promote financial literacy.

It has been 2 years since the FSCA started implementing the new regulatory approach. Prior to the establishment of the FSCA in 2018, there was no specific legislation or requirements that banks treat their customers fairly. On 3 July 2020, the FSCA published a new Conduct Standard for Banks which aims to ensure that banks conduct themselves in a manner that promotes fair customer treatment. The Conduct Standard was issued in line with the explicit mandate given to the Authority under the FSR Act to regulate and supervise the conduct of banks in relation to the provision of financial products and services. This is a big milestone in that there is now legislation that gives the FSCA authority to regulate and supervise market conduct of banks. The Conduct Standard

¹ 1 USD = 73.60 as of 14.08.2020

gives valuable insight into the hands-on approach the FSCA will take in achieving positive consumer outcomes.

The new Standard aims to address everything from the unethical treatment of customers to the proactive intervention in the design of products, and introduces guiding principles. Its central purpose is the fair treatment of customers and it is premised upon the six treating customers fairly outcomes, namely:

- customers should be confident that they are dealing with a bank in respect of which the fair treatment of financial customers is central to such bank's culture;
- in relation to financial products and financial services provided to retail financial customers, such financial products and services are suitably designed to meet the needs of identified types, kinds or categories of customers to whom they are targeted at;
- clear information is given to customers and customers are kept appropriately informed before, during and after the time of entering into a contract with such bank in respect of the financial products or the financial services offered;
- the advice provided to customers in respect of a bank's product is suitable and takes into account the needs and circumstances of such customer;
- customers are provided with financial products which perform as they have been led to expect by the bank and/or its duly authorised representative(s), and customer service is of an acceptable standard and in line with such expectation which has been created by the bank; and
- customers do not face unreasonable post sale barriers in order to change

or replace a financial product and/or financial service or to request a withdrawal or submit a complaint in relation to such financial product and/or financial service being offered by a bank.

In South Africa we have had an Ombudsman for banking services tasked with refereeing disputes between bank customers and banks. This avenue was available to banking customers in the past, and will still be the route to take where there are contractual disputes between customers and banks. The FSCA does not aim to interfere with the Ombudsman's role, which is a very important one in terms of adjudication of complaints. However, the FSCA will consider patterns of complaints to see how banks are behaving and pre-emptively intervene to change banks behavior and prevent recurrence of similar complaints in the future. The FSCA's interventions in the banking sector will be informed by customer experiences, including those that result in complaints being taken to the Ombudsman for banking services and those that are observed on social media platforms. There may be individual complaints that signal broader conduct issues and we will intervene in those areas.

In order to achieve the six treating customers outcomes referred to earlier, the Conduct Standard sets out prescribed parameters which must be adhered to by a bank. Examples of these are:

- It imposes an obligation on banks to document, adopt, implement and monitor the effectiveness of appropriate governance arrangements which are necessary to ensure that the banks conduct their business in a manner which prioritises the fair treatment of financial customers.
- Banks are furthermore obligated to, inter alia, act honestly, fairly, with due skill, care and diligence, and in a

manner which does not bring the financial sector into disrepute.

- It imposes an obligation on banks to establish and implement appropriate oversight arrangements in order to monitor and review the design and suitability of its financial products and financial services on an ongoing basis.
- Banks must ensure that their financial products and financial services are advertised in a manner which is clear, fair and not misleading.
- Where a bank uses a third party to advertise their financial products and/or financial services on its behalf, the bank will ultimately remain responsible for the manner in which the product or service is advertised and will be required to ensure that the advertisement complies with the requirements of the Conduct Standard.
- Disclosures which must be made by a bank to a customer before, during and after conclusion of a contract to ensure that a customer is aware of all the relevant facts that could be expected to influence the customer's decision in relation to such financial product and/or financial service.
- When making disclosures to customers, a bank must take into account, inter alia, the nature and complexity of the financial product and/or financial service concerned; the needs of the customer, the reasonable level of knowledge, understanding and experience of the customer; as well as the timing of when such information is disclosed to the customer in order that such customer may make an informed decision in relation to entering into, using or maintaining the financial

product and/or financial service respectively.

- A bank must continually monitor and review the design and suitability of financial products and financial services.
- It sets out the procedures which must be implemented by banks in relation to any complaints which financial customers may wish to lodge. An appropriate internal complaints escalation and review processes must also be established and implemented by banks.
- It addresses the relevant provisions in relation to the termination, closure or switching of financial products and/or financial services by financial customers. A bank may not impose an unreasonable barrier where a financial customer requests the termination, closure or transfer to another bank of a financial product and/or financial service and must assist a financial customer upon receipt of any such request.

It is the FSCA's expectation that the Conduct Standard will give effect to better and more improved outcomes for financial customers with an emphasis on transparency and disclosure in relation to the offering of financial products and financial services to customer groups.

Banks will, as a result of the publication of the Conduct Standard, need to analyse the impact of the Conduct Standard on their current business operations as well as steps to be undertaken in order to implement the Conduct Standard in their general business operations.

The standard is effective immediately but does allow for a transition period of eight to 12 months for specific sections if required.

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.

Contacts

FinCoNet Chair

Maria Lúcia Leitao
mlleitao@bportugal.pt

FinCoNet Vice Chair

Christopher Green
chris.green@asic.gov.au

FinCoNet Secretariat

Miles.Larbey@oecd.org
Matthew.Soursourian@oecd.org
Laura.Dunbabin@oecd.org
Sally.Day-Hanotiaux@oecd.org