FinCoNet
INTERNATIONAL FINANCIAL CONSUMER PROTECTION ORGANISATION

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Welcome to the FinCoNet Newsletter

Welcome to the first 2015 edition of the FinCoNet newsletter.

After a great first year in 2014 we hope that 2015 will see FinCoNet continue its excellent work and increase its membership base. Any authorities who would be interested in joining FinCoNet are invited to contact the Chair or Secretariat, contact details at the end of this newsletter! All FinCoNet work is Member-lead and we would encourage all Members to become as involved as possible in the work of the Standing Committees.

FinCoNet is delighted to announce that the 2015 Annual General Meeting will be held this year in Cape Town, South Africa and hosted by the Financial Services Board of South Africa. We thank the FSB warmly for volunteering to host this event.

The FinCoNet AGM will also be followed by a regional seminar on financial consumer protection. We would encourage all FinCoNet Members to spread the invitation to this event as widely as possible within the relevant arena. Further details of the AGM and Regional Seminar will be included in the next issue of the FinCoNet newsletter.

FinCoNet Programme of Work (POW)

Participation in project surveys

In order to assist FinCoNet with the development of its POW, we would be interested in hearing from any FinCoNet Members or other interested parties who would be willing to take the time to complete one or both of the following two questionnaires:

1. *Questionnaire from Standing Committee 2 on Responsible Lending* ***by 26 June 2015***

2. *Questionnaire from Standing Committee 3 on Mobile and Online Payments* ***by 29 May 2015***

We would be grateful if you would confirm your interest to the FinCoNet Secretariat at: sally.day-hanotiaux@oecd.org

In Focus

In Focus…

Financial Services Agency (FSA), Japan: Recent Initiatives on Cyber Security Policy

First, on 13 February, 2015, the Financial Services Agency (FSA), Japan, began a public consultation process for a draft amendment of the banking supervisory guidelines on financial institution's risk management related to information security. These guidelines are designed to protect consumers who use new technologies such as internet banking in a global situation facing the increasing gravity of threats to cyber security. The amendment of supervisory guidelines is to be finalized after taking into account the comments received in the consultation process.

Second, the Cyber Security Basic Act was enacted in November 2014. The Act stipulates the basic philosophy and the main policy directions on cyber security, as well as the roles and responsibilities of the central and local governments. This Act came into force fully on 9 January, 2015.

The FSA has been promoting policy measures to address cyber security risks, in collaboration with Information Security Policy Council chaired by the Chief Cabinet Secretary and the National center of Incident readiness and Strategy for Cybersecurity (NISC).

Current Issues Forum

South Africa's Retail Distribution Review

Contributor: Caroline Da Silva, Financial Services Board, South Africa

Over the next couple of years the financial services sector in South Africa is expected to undergo significant regulatory and supervisory change including the introduction of the proposed "Twin Peaks" model of regulation and the continued embedding of the Treating Customers Fairly (TCF) initiative as TCF forms an important foundation for the proposed creation of a new market conduct regulator, the Financial Sector Conduct Authority (FSCA) . Overall, these reforms currently being implemented and proposed are expected to deliver an approach to regulation and supervision in South Africa that is pre-emptive and proactive, outcomes-based, risk-sensitive and proportionate, comprehensive and consistent, and intensive and intrusive.

As part of the implementation of TCF, the Financial Services Board (FSB) has undertaken its Retail Distribution Review (RDR), aimed at clarifying and improving the way in which financial products are sold, advice is provided to consumers and how intermediaries are remunerated. The RDR was undertaken in response to concerns that despite comprehensive regulatory requirements dealing with financial advice and distribution, poor consumer outcomes and mis-selling still persist. The review therefore proposes the introduction of a set of structural interventions designed to change incentives, relationships and business models, in a way that supports the consistent delivery of fair outcomes to consumers.

Published in November 2014, the RDR discussion paper presents a total of 55 specific proposals which fall under the following headings:

- Types of services provided by intermediaries; including the types of services provided, measures to clarify which services are provided to which party and what capacity an adviser or intermediary acts in when performing these activities.
- Relationship between product suppliers and intermediaries; aims to enable consumers to evaluate the type and extent of financial advice they are receiving, including whether such advice is independent. The proposals also address relationships with product suppliers which could result in conflicts of interest and biased advice.
- Intermediary remuneration; these proposals are shaped by key principles including:
    - Intermediary remuneration should not contribute to conflicts of interest that may undermine suitable product advice and fair outcomes for consumers.
    - All remuneration must be reasonable and commensurate with the actual services rendered.
    - Remuneration structures should strike a balance between supporting on-going service and adequately compensating intermediaries for up-front advice and intermediary services.

- On-going fees and/or commission may only be paid if on-going advice and services are indeed rendered.
- All fees paid by consumers must be motivated, disclosed and explicitly agreed by the consumer.

The RDR seeks to give consumers confidence in retail financial services markets and trust in the product supplies and advisers to treat them fairly. Consumers will be in a position to understand more clearly what kind of advice or services they are getting, how much it will cost and how it will be paid for. Taken together these proposals will help to ensure that distribution models support fair outcomes for consumers by:

- Supporting the delivery of suitable products and provide fair access to suitable advice for financial consumers.
- Enabling consumers to understand and compare the nature, value and cost of advice and other services provided by intermediaries.
- Enhancing standards of professionalism in financial advice and intermediary services.
- Enabling consumers and distributors to benefit from fair competition for quality advice and intermediary services, at a price more closely aligned with the nature and quality of the service provide.
- Supporting sustainable business models for financial advice that can deliver fair consumer outcomes over the long term.

The RDR reforms will improve the quality of advice provided, help avoid conflicts of interest and biased advice, and offer opportunities for intermediary firms and advisers to develop consumer centric and sustainable business models. In addition the RDR aims to:

- Clarify the types of advice available and empower consumers to choose the model best suited to their needs.
- Clarify the circumstances in which no-advice or 'low-advice' distribution models are appropriate and the consumer protection measures required in such models.
- Better align the interests of advisers with their consumers by reducing a number of key remuneration based conflicts of interest that can lead to sub-optimal financial advice – including limiting the extent to which advisers may be remunerated for extraneous services to product suppliers.
- Ensure that product aggregation and comparison services and investment platforms provide unbiased objective support to financial decision-making and transacting.
- Enable consumers to better understand the status of advice services, including the level of independence of the advice provided, product supplier influence, including through reducing the scope of conflicts of interest in complex distribution models which disguise the true status of advice.
- Strike a fairer balance between the responsibilities of product suppliers and advisers in relation to the delivery of fair consumer outcomes.
- Provide transparency for consumers in relation to adviser charging. Adviser charging will be clear, product neutral, and directly related to the services provided.
- Facilitate consumers paying for advice using flexible payment arrangements, such as the deduction of adviser charges from a

consumer's investments over time – subject to clear disclosure of the impact of such changes on benefit expectations.

- Reduce the impact of adviser remuneration on reasonable benefit expectations, particularly through eliminating the justification for penal early termination charges and inappropriate product replacements.
- Remove inappropriate incentives toward tied advice models.
- Support the efforts of those in the industry who have already adopted business models consistent with the RDR objectives, including the risk of 'early adopter' disadvantages.
- Support affordability and access to financial advice, particularly for low income consumers.
- Build on the professionalism of the industry already achieved through the Financial Advisory and Intermediary Services (FAIS) Act, by including enhanced competency and conduct standards.
- Provide an opportunity for industry to develop more efficient advice delivery models.

The RDR goes some way to reduce the negative perceptions associated with the advice process and encourages consumers to seek out appropriate financial advice, helping to build trust and confidence in retail financial markets. The regulatory standards developed for the distribution of financial products through the RDR process will be integrated into the future market conduct legislative architecture under the "Twin Peaks" model, specifically for products that are marketed and sold to retail consumers in South Africa.

Interest rate caps – The Portuguese experience

Contributor: Maria Lúcia Leitao, Bank of Portugal

Since January 2010, Portugal has had an interest rate cap framework in place (Decree-Law 133/2009 of 2 June) that applies to consumer credit agreements unsecured by mortgage, issued by all credit institutions, including banks and non-banks. This framework was introduced in parallel with the transposition of the EU Consumer Credit Directive (Directive 2008/48/EC) to the national law. The main objective of the introduction of the interest rate cap framework was to enhance the access to a diversified array of unsecured credit products by the consumer, coupled with adequate consumer protection rules.

As the banking conduct supervision authority, Banco de Portugal was given by the national legislator the mandate to calculate and publish, on a quarterly basis, the maximum interest rate for each type of consumer credit, and to define the relevant types of credit.

In Portugal, interest rate caps are based on the APR (Annual Percentage Rate of Charge), a measure that follows the principles and assumptions laid down in the Consumer Credit Directive. This measure incorporates all the credit costs: interest, fees, compulsory insurance and other costs associated with the contract. Although the use of the APR has some caveats, as it is sensitive to the amount and the maturity of the contract, it is the measure that best reflects the total cost of the loan.

Interest rate caps are based on the APRs practiced by credit institutions in the market. Using micro-data reported by credit institutions on a monthly basis for all new

consumer credit agreements concluded in the previous month, Banco de Portugal calculates on a quarterly basis the average APR for each type of consumer credit and, based on these averages, defines the APR cap for each type of consumer credit. In view of the diversity of the characteristics of the consumer credit products offered by credit institutions Banco de Portugal grouped the different types of loans into categories of personal loans, car loans and revolving credit.

Banco de Portugal discloses the APR caps applicable to each type of consumer credit on a quarterly basis. This disclosure is made by a Regulation issued to credit institutions and through the Bank Customer Website (clientebancario.bportugal.pt – only in Portuguese) of Banco de Portugal. As a way to provide financial information for market participants and give back some of the cost of reporting to credit institutions Banco de Portugal also publishes in this Website a monthly brief description of the evolution of the consumer credit market as well as a more detailed analysis in a yearly publication, the Retail Banking Markets Monitoring Report.

As a result of an impact assessment of the implementation of the interest rate caps framework undertaken by Banco de Portugal, there was a change in the framework in July 2013. Over the first three years of implementation there was a progressive increase in average APR for the various types of consumer credit agreements and in the respective APR caps. However, this trend was not the same across all credit types: while in personal loans and car loans there was a relatively weak increase that was compatible with the rise of the market reference rates during that period, in revolving credit the increase was more significant. The main aim of the change was to avoid the significant increases in the maximum APR for a specific type of consumer credit and the possible arbitrage incentives between different types of credit, namely between personal and revolving credit.

Until June 2013, interest rate caps were defined for each type of consumer credit agreement as the average value of the APR of the agreements concluded in the previous quarter, increased by one third. Since July 2013, the maximum APR for each type of consumer credit agreement in each quarter is defined as the average value of the APR of the agreements concluded in the previous quarter, plus 25%; additionally, the maximum APR for each type of consumer credit agreements cannot be higher than the average APR of all consumer credit agreements (irrespective of the type) concluded in the previous quarter, plus 50%.

Banco de Portugal uses the information reported monthly on consumer credit agreements not only to calculate APR caps, but also to oversee credit institutions' compliance with the established caps. Oversight of APR caps is also carried out through on-site and off-site inspections. Banco de Portugal imposes sanctions (fines and other additional penalties) when credit institutions fail to comply with the APR cap framework. In addition, when a credit agreement is concluded with an APR exceeding the cap, the APR is automatically reduced. From January 2010 to June 2013, APRs were reduced to that cap value, since July 2013 APRs are reduced to half of that cap value.

Up to now, the assessment of the interest rate caps framework has been globally positive since it enhanced the creditworthiness assessment of the consumer as well as allowed a better comparison among credits. The implemented reporting procedures also created grounds to an effective oversight of the costs of each consumer credit offered. Moreover, since July 2013 there was a clear reduction in interest caps and a narrowing of the interest rate gaps among credit types.

However, it is important to stress that the adopted model may not necessary suit all countries. Under this model, the definition of the caps is based on the prevailing APR

conditions brought to market by credit institutions. In order to implement this interest rate caps framework, the quality of the APRs computed by credit institutions must be reliable, there must be in place an efficient reporting system and the existence of a competent authority with powers of oversight and sanctioning is crucial.

FCA challenges firms to review their approach to dealing with vulnerable customers

Contributor: Yasmin Raza and Martin Coppack, Financial Conduct Authority, United Kingdom

New research conducted by the UK Financial Conduct Authority (FCA) reveals that many consumers in vulnerable circumstances are not receiving fair and flexible treatment from their financial services providers. The research paper, Occasional Paper No.8: Consumer Vulnerability is the product of 1.5 years' worth of in-depth research into the experiences of vulnerable consumers and their interactions with banks and other financial services providers.

The paper reveals that consumer vulnerability can affect anyone - it may be either a permanent state (such as a disability, or long term illness) or a temporary life event (such as bereavement, job loss, or a treatable cancer diagnosis). Whilst there are examples of good practice in some firms, some vulnerable consumers find communicating with providers or accessing products difficult. They can often find that they are unable to obtain a flexible, tailored service that meets their needs from firms. The FCA's Chief Executive, Martin Wheatley, has asked firms in the UK to improve their approach to dealing with these customers, describing it as a 'key test of conscience for the City'.

Changing trends in the UK's demography

The UK's aging population, as well as changing trends in health, means that developing more inclusive policies will become increasingly important for financial service providers. In the UK, one in eight people act as carers, the number of dementia patients is due to double over the next 40 years, and by 2020 someone will be diagnosed with cancer every two minutes. These trends are not confined within the UK and many are similar in other countries. The FCA believes that it is vital that financial services firms think about how they can serve all of their customers, including the most vulnerable in the society, fairly.

The Consumer Experience: Case Studies

In one example, a woman suffering from cancer and her husband, who had given up work to care for her, asked their bank for a mortgage holiday or conversion to interest-only for a period. They were told that they would need to submit a new application which would be subject to standard affordability criteria, which they would not meet due to their recently changed employment status. It was only thanks to the tenacity of a charity, which negotiated on the couple's behalf that the lender agreed to six months of interest-only payments on their mortgage.

In another example, a carer who held a legal Power of Attorney reported that she experienced problems with a cashier refusing to serve her, and another cashier refusing to accept her blind mother's signature because it was slightly below the line on the form.

Separately, a woman who had just been diagnosed with leukemia telephoned her mortgage provider to discuss her mortgage repayments. The first question they asked her was 'is it terminal?' and then they proceeded to sell her health insurance and home insurance that she did not request.

The FCA Approach to Vulnerability

The FCA's Consumer and Markets Intelligence team became aware of a number of issues that, when grouped together, could be identified as impacting particularly on consumers in vulnerable circumstances. Gathering intelligence from a range of sources including a network of charities and consumer organisations, the FCA carried out a mapping exercise to identify a wide range of potential vulnerability factors. This was combined with an analysis of aspects of product and marketing design, throughout the lifecycle of products, which might cause or exacerbate vulnerability. This formed the starting point for the vulnerability work stream. A definition of vulnerability was developed together with a programme of work to embed an understanding of vulnerability within the regulator. The FCA's supervisors are the key point of contact between the regulator and firms, so work has taken place to develop training around awareness of vulnerability; and to provide a toolkit which gives supervisors the information they need to use when interacting with firms.

Next Steps

The aim of the vulnerability paper is to broaden understanding and stimulate interest and debate around vulnerability, as well as to provide practical help and resources to assist firms in developing and implementing a vulnerability strategy. To further support firms, with the FCA has developed a "practitioner pack" which provides practical tips and resources for firms.

The paper is available at http://www.fca.org.uk/news/fca-challenges-firms-to-review-approach-to-consumer-vulnerability The FCA welcomes the opportunity for further dialogue on these issues with firms and regulators alike. It is the FCA's hope that the paper will help to build momentum that will support firms to develop and implement practical strategies around vulnerability which will lead to better, more flexible results for consumers.;

Canada's affordable banking program to boost financial inclusion

Contributor: Bruno Levesque, Financial Consumer Agency of Canada (FCAC)

Healthy financial systems are crucial to economic growth and development. And a key aspect of a healthy financial system is inclusiveness.

The World Bank describes an inclusive financial system as one that "offers broad access to a range of financial products and services without barriers related to price or other forms of exclusion." Inclusive financial systems particularly benefit the poor and other disadvantaged groups by providing wider access to the financial tools necessary to invest in small businesses, education, and housing.

Throughout the developed world, chequing accounts are the gateway to the mainstream financial system. In Canada, chequing accounts are the most widely held financial

product—close to 97 percent of Canadians, including 91 percent of those in the lowest income quintile, have a chequing account or access to a joint account at a regulated financial institution.

The low-cost, no-cost initiative

Canada's highly inclusive financial system did not develop by accident. In 2001, recognizing the importance of universal access to banking products and services, the Government of Canada introduced the Access to Basic Banking Services Regulations in the Bank Act, which governs all retail banks operating in Canada. Thanks to these regulations, all individuals have the right to open a retail deposit account with a federally regulated financial institution, as long as they can provide identification—even if they do not have a job or money to deposit.

In 2002, as part of its strategy to improve access to banking services, the federal government negotiated agreements with eight of Canada's largest banks to provide "low-cost" bank accounts. Since then, these accounts have provided each client with at least 12 self-service banking transactions every month, two of which can be full-service transactions in a bank branch with teller assistance. The accounts include debit cards, unlimited deposits, pre-authorized payment arrangements, printed monthly statements and cheque image return or online cheque imaging services. The fees for these accounts average about four Canadian dollars per month. The participating banks also agreed to provide any services beyond these minimum requirements at reasonable fees.

Financial institutions are required to disclose to their clients the cost and array of services covered by the monthly chequing account fee. FCAC verifies these disclosure statements to ensure they meet its plain-language guidelines and do not mislead consumers.

In 2014, the government and the eight participating banks agreed to update and expand the program. They now offer basic banking at no cost to youth, students and seniors. In 2015, the same basic accounts became available to two financially vulnerable groups: Canadians who are beneficiaries of registered disability savings plans; and seniors who receive the federal Guaranteed Income Supplement, a monthly payment for seniors on low incomes.

Results

Canada's market-driven and non-prescriptive approach to financial inclusion has created a thriving market for free and low-cost banking in Canada. Nearly every Canadian can access affordable banking.

In addition, the wide availability of these kinds of accounts further enhances consumer choice in financial services.

FinCoNet

Established in 2013, FinCoNet is an international organisation of supervisory authorities which have responsibility for financial consumer protection. It is a member based organisation and has been 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 strengthen consumer confidence by promoting robust and effective supervisory standards and

practices and by the sharing of best practices among supervisors. It also seeks to promote fair and transparent market practices and clear disclosure to consumers of financial services.

FinCoNet's initial focus is on banking and credit consumer issues.

FinCoNet Standing Committees

During the 2014 FinCoNet Annual General Meeting, and under the ageis of the FinCoNet Programme of Work 2015-16, three FinCoNet Standing Committees have been established:

Standing Committee 1: Supervisory toolbox

The objective of Standing Committee 1 is to develop a Supervisory Toolbox to provide members with information related to the different tools used by supervisors in other jurisdictions and what their experiences have been in using them.

The Supervisory Toolbox aims to be dynamic and interactive, offering a user-friendly searchable database for members. A prototype is currently being developed by Standing Committee 1.

Standing Committee 1 members: Canada (Chair), Netherlands, Norway, Portugal, Saudi Arabia, South Africa.

Standing Committee 2: Responsible lending

The aim of the Standing Committee 2 is to build on the FinCoNet Report on Responsible Lending and to publish a report on the effect of incentives on the selling of consumer credit products. The report will include an analysis of the research to date, case study data collected using a questionnaire developed by Standing Committee 2 and observations of the group arising therefrom.

Standing Committee 2 members: Ireland (Chair), Australia, Indonesia, Portugal, Spain.

Standing Committee 3: Mobile Payments

The objective of the work of Standing Committee 3 is to analyse the new supervisory and regulatory challenges arising from the technological developments in online and mobile payments.

The Standing Committee 3 will develop a survey on 'Online and mobile payments: supervisory challenges to mitigate security risks', which will aim to collect information from different jurisdictions on online and mobile payment services, on payment providers and on the oversight framework applicable. The survey will gather the relevant practices, tools and mechanisms connected to online and mobile payments from around the world. The report will help competent authorities to assess best practices regarding the oversight of online and mobile payments.

Standing Committee 3 members: Portugal (Chair), Brazil, Canada, China, Japan, South Africa, United Kingdom.

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