Public Consultation: Impact of Sales Incentives on the Sale of Consumer Credit Products

Response to Public Consultation received from Peru

FinCoNet
INTERNATIONAL FINANCIAL CONSUMER PROTECTION ORGANISATION

IMPACT OF SALES INCENTIVES ON THE SALE OF CONSUMER CREDIT PRODUCTS

This consultation paper considers that the impact of sales incentives must be included in the supervisor's approach in order to develop a more consumer-focused culture in financial services.

In Peru, there are two (02) oversight bodies that are explicitly responsible for consumer protection in relation to consumer credit: The National Institute for the Defense of Competition and the Protection of Intellectual Property (Indecopi) and the Superintendence of Banking, Insurance and Private Pension Funds (SBS). Powers of the SBS and INDECOPI as regards to consumer protection of financial institutions are overlapping and the division of responsibilities between agencies remains unclear. For this reason, in order to avoid conflicts of interests, both entities must coordinate permanently and define the scope of their powers clearly.

The consumer protection regulatory framework does not explicitly allow the SBS to regulate or supervise the sales incentives schemes. However, cross-selling is regulated in the Consumer Protection Code and it is considered an abusive commercial practice for Indecopi Issues.

Necessary Pre-conditions: Question 1-3

We agree with the proposed pre-conditions of the overarching regulatory framework. Also, we consider that if there are two or more oversight bodies they must coordinate permanently and define the scope of their powers clearly.

Appropriate Oversight: Question 4-7

We agree with the fact that poorly designed sales incentives can cause harm to consumers, individual firms and the whole financial system. So, including the assessment of sales incentives in the supervision approach would be necessary.

Also, we consider that even all types of consumer credit products and sales channels should be included in the supervisors' approach it is important to adopt a risk-based approach. Regarding credit cards, in Peru we verify the information given to consumers by the staff that offers this type of credit by phone. Offering credit cards by phone is a current commercial practice in Peru, and it usually allows the use of mis-selling practices. The number of complaints related to these kind of offer reinforces this statement. Nowadays, our market conduct supervision approach regarding to credit cards gotten by phone is focused on assure that the information that the staff gives to consumers is transparent, clear and appropriate in order to allow consumers wise decision-making. However, it would be important to assess the sales incentives scheme if we want to find the cause of mis-selling practices.

Cross Selling: Question 8-11

We consider that the cross-selling of products should have minimal considerations that must be aligned with customer needs. For example, in Peru, the Consumer Protection Code prohibits coercive commercial methods to condition sale of a product or service provision to the acquisition of another, unless, by their nature, both are complementary, for example insurances that are condition to obtain a loan. The current regulation indicates

that financial institutions must allow the customer to bring your own insurance, as long as it meets the conditions set by the entity.

Consumer-focused Culture: Question 12–15

In Peru, there are many variable remuneration arrangements which can encourage sales at the expense of consumers' best interests, so we agree with this guidance. For example, the current regulation allows some types of loans prepay without penalty at any time.

Regarding to challenges for the implementation of the Guidance on Consume-focused Culture, it would be necessary to understand how the sales incentives scheme can act as an obstacle to consumer protection measures. Also, we have to consider that the design of the sales incentives schemes depends on the organizational culture and the institutional values. If the financial institution does not consider the consumer protection as an important value, the sales incentives schemes would ignore the consumers' best interests. So, the most important challenge would be to foster the development of a consumer-focused Culture within the firms, especially at the management level.

General Duties and Specific Responsabilities: Question 16–19

In Peru, the regulatory framework sets general obligations to the firm in order to act considering the best interests of consumers. However, there are no detailed requirements on sales incentives. But, although we cannot prohibit a company have certain incentive schemes, if we could prove that the sales incentives scheme promotes the use of mis-selling practices, we would be allowed to recommend the adjustment of the scheme.

The implementation of detailed requirements on sales incentives would be the most important challenge for the implementation of this guidance because it would require several changes in our legal and regulatory framework in order to modify the afforded powers to the supervisory bodies.

Oversight of Different Sales Networks: Question 20–23

We agree with the fact that regulatory requirements must be applied consistently throughout the overall architecture of a given sales network and across all channels. The supervision of the whole sales network could be useful in order to identify which area of the distribution chain is more susceptible to avoid the regulatory requirements. In that way, the implementation of this guidance will have positive effects on our work.

In Peru, the supervision approach is focused in those channels and products which have motivated the largest number of complaints. For example, we usually assess the sales of credit cards by telephone and the sales of insurance products tied to credit cards at the retail channel.

Oversight and Governance: Question 24–27

We agree with the fact that firms' oversight and governance of credit products is necessary in order to reduce the potential for consumer detriment.

Regarding to challenges for the implementation of this Guidance, it would be necessary to identify the scope and strength of firms' product oversight and governance arrangements. However, considering that our

regulatory framework does not consider the supervision of the firms' product oversight and governance, if we identify that these arrangements are not appropriate, we would not be able to recommend their adjustment.

Peru has promoted the code of good practice by the industry, which seeks companies commit to consumer needs, both on the issue of consumer sales as providing useful information for them. Thus, we consider that such a practice would be a good mechanism to promote oversight and governance.

Monitoring: Question 28–31

We agree with the fact that even assuming well-designed sales incentive schemes are in place, monitoring activities are necessary to spot weaknesses as they emerge and take corrective actions.

In Peru, there is no regulation about the specific aspects proposed on this guidance, but we consider that monitoring measures and procedures are necessary to ensure that sales incentives schemes are properly implemented.

However, regarding the implementation of this guidance, it would require several changes in our legal and regulatory framework in order to modify the afforded powers to the supervisory bodies.

Disclosure: Question 31–35

We agree with the fact that disclosure alone is not an effective mitigant for a poorly designed incentive arrangement. Also, it would be difficult for consumers to understand how the sales incentives can affect them. In that way, we consider that disclosure of the sales incentives arrangement should not be an obligation for the financial institution.

In Peru, a type of established disclosure is in the requirement that insurance companies should include in your policy all costs imposed on the sales channels.

Promotional Incentives to Consumer: Question 36–39

In Peru, the market conduct regulation enables the assessment of promotional incentives in credits, savings accounts or insurance products in order to verify if the benefits fit the offered conditions. However, our supervision approach does not consider if the benefit is significantly outweighed by the cost of the credit or when to prohibit or restrict this practice on the grounds that the apparent benefit of the promotional incentive is in fact illusory.

Regarding the implementation of this guidance, it would require several changes in our legal and regulatory framework in order to modify the afforded powers to the supervisory bodies.