NEWSLETTER ISSUE 4 December 2022

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 2022 edition of the FinCoNet newsletter, which has a particular focus on the FinCoNet Annual General Meeting and Seminar held on 21-23 November 2022. The Newsletter also includes articles provided by ASIC, Australia, the Central Bank of Ireland, the Netherlands AFM, the IAIS, the Central Bank of Nigeria, and Banco de Portugal.

The In Focus section of this Newsletter includes biographies of the new FinCoNet Chair and Vice Chair, nominated during the FinCoNet AGM.

I hope you will find this edition of the FinCoNet newsletter an interesting and enjoyable read!

Chris Green
Chair, FinCoNet

In this issue

This fourth 2022 issue of the FinCoNet Newsletter includes:

FinCoNet Annual General Meeting 2022

– Secretariat

FinCoNet Programme of Work 2023/4

– Secretariat

Australian Government consults on Buy Now Pay Later

– ASIC, Australia.

Supporting consumers in a changing economic environment

– Central Bank of Ireland.

The Buy Now, Pay Later (BNPL) market in the Netherlands

– Netherlands AFM.

IAIS reports on diversity, equity and inclusion action in the insurance sector

– IAIS

Structural measures to improve the Spanish mortgage lending market

– Banco de España

Update on the digital financial services (DFS) awareness guidelines by the consumer protection department, Central Bank of Nigeria.

– Central Bank of Nigeria

The Portuguese measures taken to alleviate mortgage borrowers from rising interest

– Banco de Portugal

In Focus

FinCoNet’s new Chair: Chris Green

Elected by the FinCoNet Members on 21 November 2022, Mr. Chris Green is the new Chair of FinCoNet.

Chris Green is the Group Senior Manager - Credit for the Australian Securities and Investments Commission’s (ASIC) Credit and Banking team, with responsibility for ASIC's consumer credit jurisdiction. Chris is also ASIC's Regional Commissioner for Tasmania.

Chris is a lawyer and has worked for ASIC in senior enforcement, regulatory and policy roles focusing on Financial Services and Consumer Credit regulation.

Chris lives in Hobart, Tasmania, Australia.

In Focus

FinCoNet's new Vice-Chair: Juliana Sandri Mozachi

Elected by the Members of the FinCoNet Governing Council on 22 November 2022, Ms. Juliana Sandri Mozachi is the new Vice Chair of FinCoNet.

Juliana Mozachi Sandri is the Head of Conduct Supervision of Banco Central do Brasil since April/2022, currently responsible for the Supervision of financial consumer protection and anti-money laundering and counterfeit terrorism aspects of the Brazilian financial system.

Juliana is a lawyer; holds a Master Degree in Public Administration from the American University in Washington, DC; and a Doctoral Degree in Education from the University of Illinois in Urbana-Champaign, IL.

She has been working for the Brazilian government for 16 years, and before working for the Banco Central do Brasil she has worked for a private international bank. Juliana lives in Brasilia, Brazil, with her husband and children.

Current Issues Forum

FinCoNet Annual General Meeting & International Seminar 2022

On 21-22 November 2022, FinCoNet held its Annual General Meeting, hosted by the Banco de Portugal in Lisbon, Portugal, 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 co-sponsored by FinCoNet and the Banco de Portugal on Market Conduct Supervision: reviewing the fundamentals and facing the challenges ahead, on 23 November 2022.

The AGM marked FinCoNet's final meeting chaired by Ms Maria Lúcia Leitão, of the Banco de Portugal, who was appointed Chair of FinCoNet in 2019, after previously serving as Vice-Chair and Acting Chair of organisation. Stepping down from her role, Ms Leitão said:

> "*It has been a tremendous honour to have been part of FinCoNet, as a founding member, from the beginning, and even before that, when it was just an informal network of supervisory authorities back in 2007. It was a great pleasure to serve as FinCoNet's Chair, a role which I took on with a great sense of responsibility and commitment. Looking back over the last three years, FinCoNet has built an impressive body of work in the field of market conduct supervision, and has welcomed several new authorities into its membership, which now includes representatives from all continents. FinCoNet has also reinforced cooperation with its Observers. Strengthening financial consumer protection and market conduct supervision has been one of my life's missions in the last 15 years. I am sure that FinCoNet will continue to strengthen its leading position as a network of market conduct supervisory authorities.*"

At the AGM, FinCoNet Members appointed as its new Chair Mr Chris Green, Group Senior Manager of Credit at the Australian Securities and Investments Commission. Previously, Mr Green served as Vice-Chair of FinCoNet.

Assuming the role of Chair, Mr Green said:

> "*FinCoNet is an important international organisation dedicated to strengthening consumer protection in banking and credit through effective financial market conduct supervision. ASIC is very keen to play a leadership role in FinCoNet, and personally it is a great opportunity and responsibility to become Chair. I am very conscious of the example set by Ms. Leitão, who has been an outstanding Chair and is one of the original FinCoNet delegates. I am very much looking forward to working with all the FinCoNet membership in this new role.*"

FinCoNet also appointed as its Vice-Chair Ms Juliana Sandri, Head of the Department of Conduct Supervision at the Banco Central do Brasil. Ms Sandri said:

> "*I am deeply honoured to take on the role of FinCoNet Vice-Chair. I know it is great responsibility. I hope that in my new role I can contribute to the advancements of the field and support engaging more countries and institutions in the important work of FinCoNet. I would like to thank the Secretariat and Maria Lúcia for her enthusiasm, inspiration and believing in my potential. And congratulations to Chris on your confirmation as Chair - it is most deserved. You can count on me.*"

In addition, FinCoNet announced the reappointment of the following Members to the Governing Council: Banco de Portugal, Bank of Spain, Banco Central do Brasil, Bank of Italy and Financial Services Agency of Japan.

FinCoNet Annual General Meeting, 2022.

FinCoNet Members approved the publication of a report on Supervisory approaches regarding the prevention and management of arrears: Special focus on exit strategies from payment holidays, prepared by Standing Committee 2. Members also approved the Programme of Work for 2023/24, which will comprise the following workstreams carried out by four Standing Committees:

- Supervising and assessing suitability of short-term credit products (e.g., Buy Now Pay Later)
- Challenges of supervising new entrants/non-financial institutions
- Revisiting the foundations of market conduct supervision and taking stock of the latest thinking on effective models/approaches
- Market conduct supervision in challenging times

Throughout the 2022 AGM, 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 challenges they currently face and the solutions they are developing. Notably, Members shared experiences from their jurisdictions relating to the increase in digitalisation, scams and frauds, new oversight tools and supervising credit products. The AGM also featured an interactive workshop on the risks to consumers, the challenges facing supervisors and the supervisory tools used to monitor and respond to new forms of credit or credit-like products such as Buy Now, Pay Later.

During the AGM, FinCoNet welcomed three new Members who joined FinCoNet during 2022: the Hong Kong Monetary Authority, the Central Bank of Egypt, and Bangko Sentral ng Pilipinas.

The FinCoNet AGM 2023 will be held in November 2023, followed by an international seminar.

FinCoNet Programme of Work 2023/4

FinCoNet Mandate

FinCoNet's mandate, as described in the Objects of the Association, is to promote sound market conduct and strong consumer protection through efficient and effective financial market conduct supervision, thereby contributing to stability in financial services sectors around the world. Specifically, FinCoNet seeks to:

- Enhance the protection of consumers of financial products and services, and the effective implementation of financial consumer protection frameworks, by promoting robust and effective supervisory standards;
- Strengthen consumer confidence, by promoting strong market conduct supervisory practices and the sharing of best practices among supervisors;
- Reduce systemic consumer risk in the marketplace, by promoting fair and transparent market practices and clear disclosure to consumers by financial institutions; and
- Develop strategic partnerships with other organizations focused on market conduct.

FinCoNet provides a forum for research and the exchange of information and best practices related to market conduct supervision and consumer protection issues with a focus on consumer credit and banking.

FinCoNet Standing Committees

The key workstreams of FinCoNet are led and developed by the Standing Committees comprising representatives from Member jurisdictions with assistance provided by the OECD Secretariat. The aim is to ensure the involvement, relevance and commitment of the Membership to all projects undertaken. FinCoNet Members are encouraged to participate actively in the work of the Standing Committees, as a Member or Chair.

The Standing Committees are responsible for defining the precise scope and output of their workstreams, based on their knowledge and experience of the issues at hand.

Focus of Standing Committees in 2023/24

The focus of the Standing Committees for 2023/2024 is as follows:

Standing Committee 2 (SC2)

- New workstream: Supervising and assessing suitability of short-term credit products (e.g., Buy Now Pay Later)

The workstream of SC2 on Supervisory approaches regarding the prevention and management of arrears with a special focus on exit strategies from payment holidays is anticipated to conclude with the publication of the SC2 Report in November 2022.

Building on this work, and in line with SC2's thematic focus on credit, SC2 will explore strategies and approaches used to supervise the provision of novel short-term credit products – including how to assess their suitability. The workstream may explore products such as Buy Now Pay Later and Earned Wage Access (also known as salary advance schemes), among others.

Standing Committee 3 (SC3):

- Completion of current workstream on FinTechs, BigTech, and implications for traditional financial institutions and for conduct supervisors during 2023
- Then, workstream on the challenges of supervising new market entrants/non-financial institutions

The SC3 workstream on FinTechs, BigTech, and implications for traditional financial institutions and for conduct supervisors is anticipated to conclude during 2023 with the publication of a Report. Following this publication, SC3 will dive deeper into specific challenges of supervising new entrants and non-financial institutions.

Standing Committee 4 (SC4)

- New workstream: Revisiting the foundations of market conduct supervision and taking stock of the latest thinking on effective models/approaches

The new SC4 workstream will underscore the importance of market conduct supervision, explore different institutional arrangements (and the advantages and disadvantages of each) and introduce key methodologies. While this workstream will be relevant for a wide range of jurisdictions, it will particularly help to address the needs of organisations who are in the earlier stages of establishing their market conduct supervision functions. It is likely this workstream will be of interest to potential new Members, including those from developing and emerging economies, as well as assisting current FinCoNet Members.

The workstream also aims to have a forward-looking perspective by surveying the latest thinking on approaches as well as the tools and techniques applied to market conduct supervision (not necessarily technology-related).

Standing Committee 6 (SC6):

- Completion of current workstream on Mortgage Distribution – sales incentives, consumer outcomes and supervisory approaches during 2023
- Then, workstream looking in more detail at market conduct supervision in challenging times

The SC6 workstream on Mortgage Distribution is anticipated to conclude during 2023 with the publication of a Report.

Following the publication of this Report, SC6 will examine an increasingly relevant topic: how market conduct supervision is carried out in the midst of challenging times. This workstream may look at how low levels of financial resilience, coupled with rising costs, affect financial consumers (e.g., higher demand for credit) and in turn how this affects market conduct supervision.

Australian Government consults on Buy Now Pay Later

Contributor: ASIC, Australia

The Australian Government is consulting on the regulation of buy now, pay later (BNPL) products to identify an appropriate approach that maintains the benefits of accessing credit while ensuring consumers are adequately protected. This article sets out the options being considered.

BNPL is not currently defined in Australian legislation. Arrangements can be short-term for amounts up to $2,000 or for up to five years for amounts up to $30,000. BNPL products are low or no cost to the consumer and therefore, BNPL providers are able to rely on exemptions to licensing requirements. BNPL providers are, however, subject to product governance requirements under the Design and Distribution Obligations.

In 2020, ASIC has published its latest information about BNPL in Australia in Buy Now Pay Later: An industry update REP 672.

Options being considered by the Australian Government:

Option 1: Strengthening the BNPL Industry Code plus an affordability test

Under this option there would be a bespoke 'affordability test' and an industry code, possibly mandated by regulations and/or approved by ASIC. There would be no requirement to be licensed.

Of the options being considered, this option presents the lowest barrier to entry and would be easy for industry to adjust to and comply with using current business models. While a simple test would clarify whether a consumer has a poor credit history or excessive existing credit, it may not give a full picture of the consumer's financial situation, including BNPL debts that are not reported in the credit reporting system. The current Industry Code covers less than half of current providers and there are no civil or criminal sanctions for non-compliance.

Option 2: Limited BNPL regulation under the Credit Act, including licensing and scalable unsuitability test

This option considers a bespoke 'responsible lending' test, the requirement to hold an Australian credit license (ACL) and an Industry Code approved by ASIC.

A bespoke 'responsible lending' obligation would be a scaled down test that may not require the verification of the consumer's financial information. This could be aligned with the amount to be lent or potential recourse against the consumer.

The obligation to hold an ACL would come at a cost to providers but provide protections for consumers, requiring compliance with the general conduct obligations, better data collection and compliance with laws preventing the increase of credit limits.

Option 3: Regulation of BNPL under the Credit Act

This option considers regulation of BNPL consistent with other credit products in the market, including the requirement to hold an ACL, full responsible lending provisions and a voluntary industry code.

A voluntary industry code presents the ability to address issues beyond the law such as account freezes and late fee caps. This option would incur higher compliance costs and barriers to entry for new BNPL providers, but would provide consistency in consumer protection across credit products.

The Government's consultation paper contains a summary of international developments at Attachment B. Submissions close 23 December 2022.

Supporting consumers in a changing economic environment

Contributor: Central Bank of Ireland

The Central Bank of Ireland has published a range of information in November and December 2022 focused on how the financial sector can support consumers in a changing economic environment. This includes our expectations of regulated firms to play their part in supporting consumers to navigate the changing landscape; a new consumer targeted campaign on short term credit; and behavioural research on mortgage refinancing.

In November 2022 the Central Bank issued a Dear CEO letter to all regulated firms to reaffirm its expectations on how they treat consumers in a changing economic landscape. The letter details the specific actions firms are expected to take to ensure consumers' best interest are protected, recognising the multiple challenges consumers are facing because of the more challenging economic outlook, energy-driven inflation, rising interest rates and significantly higher consumer prices and business costs. The letter does not set out new regulatory requirements, but rather guides firms on aspects of the regulatory framework where we want to see firms pay particular attention at this time, and our high level expectations in the areas of:

- Affordability and sustainability;
- Provision of relevant, clear and timely information;
- Effective operational capacity; and
- Sales and product governance.

The Central Bank produced a new consumer targeted campaign on short-term credit in November 2022. The purpose of the campaign is to inform consumers of regulated firms' obligations, and build awareness of the implications of buying goods on short-term credit. The campaign was timed to coincide with the Black Friday/Cyber Monday online promotional period, ahead of the Christmas shopping period, based on digital communications, including a short video and infographic, targeted to online audiences.

The Bank has also published the results of a study to determine whether certain changes in communications with mortgage holders might boost engagement with refinancing opportunities. Under the Consumer Protection Code, mortgage lenders are required to inform variable rate mortgage holders about other, lower-cost mortgage products that are available. This should be done when interest rates change as well as annually. Borrowers whose fixed rate term is nearing its end are also required to receive such information. This research sought to understand whether changes to the language used in these letters might encourage more consumers to engage with refinancing opportunities. The changes were designed to address a number of behavioural biases that have previously been shown to inhibit engagement with refinancing opportunities, including inattention, present bias, and procrastination.

The Buy Now, Pay Later (BNPL) market in the Netherlands

Contributor: AFM, Netherlands

On 22 November 2022, the AFM published a report about the 'Buy Now, Pay Later' (BNPL) market in the Netherlands. The English version of the report is available on the website of FinCoNet. The report provides insight into the offer, the demand, and the risks of BNPL. BNPL offers consumers advantages such as flexibility and helps online shops to increase their sales. However, it can also contribute to debt accumulation and debt habituation. Furthermore, consumers are often under the impression that BNPL is free of charge and might be surprised by relatively high late payment fees. Due to the risks of BNPL, the AFM favours its regulation within the EU Consumer Credit Directive.

The Dutch BNPL market in numbers:

The number of BNPL transaction has increased by 35% in 2021

- 7% of consumers use BNPL because they do not have sufficient financial means at the time of purchase
- The highest percentage of consumers handed over to a collection agency concerns consumers aged between 18 and 24, with up to 6%
- Up to 20% of consumers aged up to 65 years have incurred late payment fees
- Late payment fees represent between 20% and 40% of the total revenue of some BNPL providers

BNPL can lead to debt accumulation

BPNL creates a real risk of debt accumulation since it can also be provided to consumers who might already be over-indebted. Unlike consumer credit providers, BNPL providers are not legally obliged to conduct a creditworthiness assessment and are not affiliated with the Dutch Credit Registration Agency (Stichting Bureau Kredietregistratie, or BKR). Due to current economic circumstances, the AFM is even more concerned about the risks of BNPL. Consumers with insufficient financial means might see BNPL as a short-term solution to their financial difficulties. In the long run, however, it may cause them more financial problems.

BNPL can lead to debt habituation

BNPL enables consumers to defer payment for online purchases fully or partially until after delivery. Webshops that allow deferred payment often focus on consumer goods that lend themselves to impulse purchases, such as clothes and cosmetics. BNPL may erode the social norm of saving for a purchase first and paying for it immediately, which can lead to debt habituation.

Late payment fees must be clear and in line with the law

Consumers are often under the impression that BNPL is free of charge, so they might be surprised by relatively high fees that are due for late payment. In its report, the AFM emphasises that BNPL providers must ensure late payment fees are clear to consumers, and that these fees are in line with the law.

AFM favours the regulation of BNPL

BNPL is currently not subject to consumer credit law and the AFM's supervision. This might change in the future, as the European Commission has proposed the regulation of BNPL within the EU Consumer

Credit Directive. BNPL providers would then have to comply with a variety of requirements regarding the provision of information, creditworthiness assessment and arrears management. Considering the risks of BNPL, the AFM supports this proposal.

IAIS reports on diversity, equity and inclusion action in the insurance sector

Contributor: IAIS

The International Association of Insurance Supervisors (IAIS) is the global standard-setting body for the supervision of the insurance sector.

In 2021 the IAIS adopted diversity, equity and inclusion (DEI) as one of six key strategic themes of its work programme, in recognition that advancing DEI within insurers' organisations and in the way they operate their businesses supports better prudential and consumer outcomes.

DEI stocktake report

On 6 December 2022 the IAIS published a stocktake report on the actions IAIS member supervisors, other international organisations and the insurance industry are taking to advance DEI in the insurance sector.

The report provides rich insights into various insurance supervisors' activities to promote DEI in insurers, covering both prudential and conduct supervisors. These insights can guide other supervisors on the steps they could take to advance DEI in their own jurisdictions.

The report also summarises the perspectives of a sample of stakeholders in the insurance industry on why they see DEI as important to insurers, the biggest challenges they face, and what they think supervisors can do.

FinCoNet members may be particularly interested in:

- Section 1 – which explains the IAIS' interest in DEI, including the view that insurers incorporating DEI considerations into the way they operate their business (including all aspects of managing the product life-cycle and interacting with customers) will lead to better consumer outcomes; and
- Section 2.3.2 – which describes activities of market conduct supervisors to promote DEI considerations in the way insurers operate their business. Supervisors who are taking such action have typically focused their expectations on product suitability, vulnerable groups and customers with disabilities. Some have also focused on equity, prohibiting discriminatory business conduct, design, pricing and coverage.

Next IAIS projects on DEI

Observing a growing interest in DEI from several international organisations but with direct action still largely at an early stage, the IAIS will maintain a focus on DEI and launch two new projects in 2023:

- One will examine the link between DEI within an insurer's institution and its governance, risk management and corporate culture.

- The other will examine how DEI considerations in insurers' conduct of business, and in their supervision, may result in fairer treatment of consumers who are vulnerable, under-served or have different needs in comparison with a normative or majority consumer profile.

The IAIS will continue drawing attention to the importance of DEI for the achievement of better prudential and consumer outcomes and greater inclusion, and encourages the supervisory community and industry to continue progressing activity on DEI.

The IAIS is also committed to strengthening its own DEI as a global membership association. Click here for more information on the IAIS' own DEI commitment.

Please contact Lauren.Eckermann@bis.org in case of any questions or comments.

Structural measures to improve the Spanish mortgage lending market

Contributor: Isabel Torre, Banco de España

On November 23, 2022, Royal Decree-Law 19/2022 (RD-l 19/2022) was published to relieve the increase in variable interest rates on mortgage loans on residential properties, derived from the rising trend of the Euribor. This regulation amends Royal Decree-Law 6/2012 (RD-l 6/2012), of March 9, which was enacted in 2012 to provide a response to the mortgage debtors most affected by the previous financial crisis of 2008.

The new measures anticipate possible situations of financial difficulty that may result from the rise in interest rates, especially for those debtors with variable rate mortgages. Among the most relevant measures, the following are particularly noteworthy:

1. On the one hand, RD-l 19/2022 establishes a new "Code of Good Practices" for debtors at risk of vulnerability. This new code is applicable to individuals holding mortgage loans for homes with a maximum purchase price of 300,000 euros, granted until December 31, 2022 (eligible borrowers) and will have a duration of 2 years, until December 31, 2024. In order to be eligible for the measures contained in the code, borrowers must meet the following vulnerability conditions:
    - That the combined income of the members of the family unit does not exceed certain limits.
    - That, in the 4 years prior to the application, the family unit (i) has suffered a situation of significant alteration of its economic circumstances or (ii) is in a situation of special vulnerability.
    - That the mortgage payment is greater than 30% of the net income received by the family unit.

Adherence to the measures contained in RD-l 19/2022 is voluntary for credit institutions and other individuals who professionally carry out the activity of granting mortgage loans. Once adhered, the provisions of the code are of mandatory application with respect to eligible loans and debtors. Eligible debtors may opt for the novation of the mortgage loan through any of the following options:

- Extension of the term up to a maximum of 7 years with modification of the instalment.
- Conversion of the variable rate to the fixed rate freely offered by each entity.

Before proceeding with the novation, the lender must provide the debtor with information on the two alternatives, describing the legal and economic consequences.

2. On the other hand, RD-l 19/2022 modifies the already existing "Code of Good Practices" that was published in 2012 (RD-l 6/2012), which allows the restructuring, write-off or dation in payment to vulnerable debtors, in order to cover those vulnerable debtors affected by interest rate increases. Improvements are introduced in the measures, such as the possibility of restructuring the mortgage loan with an interest rate equivalent to Euribor -0.10% (instead of Euribor +0.25%), during the 5-year grace period. Other improvements in the procedure are established, such as the extending of deadlines for requesting dation in payment.

Besides the aforementioned measures, RD-l 19/2022 modifies the early repayment regime established in Law 5/2019, of 15 March, on credit agreements relating to residential immovable properties. Specifically, in cases of subrogation of a third party in the creditor's rights and novation of the interest rate (changing from variable to fix interest rate), (i) the amount of the compensation or commission for early repayment may not exceed the limit of 0.05% of the principal repaid (instead of 0.15%) during the first three years of the term of the loan, and (ii) if the novation does not result in early repayment of principal, no commission may be charged.

Additionally, the commissions and compensation regime for early repayment of mortgage loan contracts at variable interest rates is suspended on a transitory basis until December 31st 2023. During this period any commission will accrue due to the conversion of a variable rate mortgage loan to a fixed rate.

As established in the RD-l 19/2022, Banco de España, among other actions, will publish on its website (i) a "Guide of tools for mortgage debtors in payment difficulties"; (ii) two simulators to provide information on the eligibility regime and access to the measures of both codes and on the impact of the proposed measures on the conditions of the mortgage loan; as well as (iii) a list of contact points of the Spanish State, the Autonomous Regions and local entities for the provision of services to citizens with payment difficulties on their regular residence. Likewise, Banco de España will continue handling complaints related to the compliance of the measures included in both codes.

Finally, the RD-l 19/2022 reinforces the monitoring of the application of both codes by the Control Commission, which has been the body in charge of these functions since the publication of the 2012 Code of Good Practices. The Control Commission shall be competent (i) to answer interpretative consultations related to both codes; and (ii) for the disclosure -jointly with the half-yearly Code of Good Practices compliance assessment report of RD-l 6/2012- of an annex entitled "Monitoring of the measures of the Code of Good Practices of Royal Decree-Law 19/2022, of November 22nd". The Control Commission will receive and evaluate the information provided by Banco de España on the application of the measures of the codes (information that the adhered entities will send to the Bank of Spain on a monthly basis, as stated by law).

Update on the digital financial services (DFS) awareness guidelines by the consumer protection department, Central Bank of Nigeria.

Contributors: Rashida Monguno, Director of Consumer Protection Department, Oludamola, Atanda, Head of Market Conduct Division, Central Bank of Nigeria

Introduction:

The COVID-19 pandemic was a major shock to the global economy. Its effects challenged the norms of business transaction, banking operations and the payment infrastructures of developed, emerging, and developing economies. Although the entire world suffered greatly from its drastic impact, it is also taught world leaders to think-out-side box and then challenge the status quo of doing business, especially in the financial ecosystem.

Owing to the growth in Digital Financial Services, users were forced to embrace the inherent risk and opportunities that comes with the product. Data shows that the total number of frauds attempts as at Q3 (January to September) has grown by 186% from 2019 to 2020, while fraud attempts via mobile channels showed a 330% increase year-over-year (YoY), while attempts via web and Point of Sale (POS) channels saw a 173% and 215% increase YoY (NIBSS.2021)

However, this innovative products and services known as DFS, enables businesses to adopt to the new normal, fight existing and emerging competition and meet up regulatory requirements in a more pragmatic approach amongst others.

Challenges facing the usage of DFS in Nigeria

One of the core issues affecting the usage of DFS in Nigeria is the significant proportion low level of knowledge of alternative means of accessing financial services, including the use of mobile money, and despite having fairly good mobile network coverage in some parts of the country and high mobile penetration (USAID. 2019).

Other factors include following such as low mobile money awareness which has led to low mobile money uptake in Nigeria, exorbitant, extra, and unclear charges by FSPs; unauthorized transactions on customer's account; and phishing by phone or SMS.

Hence the need for a Digital Financial Services (DFS) Awareness Guidelines to curb these challenges.

Nigeria's perspective to digital financial services with focus on consumer protection

The launch of the National Financial Inclusion Strategy (NFIS) on the 23rd of October 2012 was a major milestone aimed to reduce the financial exclusion rate in Nigeria from 46.3 % in 2010 to 20 % in 2020. One of its top priorities is to promote Digital Financial Services (DFS) to unlock highly potential models.

In 2020 the Bank commenced the development of a Digital Financial Services Awareness

Guidelines for the Industry in collaboration with the Innovation for Poverty Action (IPA).

Development of exposure draft digital financial services (DFS)

Awareness guidelines

The Central Bank of Nigeria has developed the Digital Financial Services Awareness Guidelines to address gaps in consumer knowledge and practices with Digital financial Services (DFS). DFS have the potential to expand access to financial services for theNigerian population and spur innovation in the financial services industry. The Guidelines provides for a set of principles and expectations for Financial Service Providers to integrate in the provision of DFS to ensure consumer understanding, good treatment, and positive outcomes.

The objectives of the Guideline is to set Digital Financial Literacy (DFL) standards for Digital Financial Services Providers (DFSP), align product development, promotion, and consumer awareness to DFS amongst DFSP, enhance transparency and proper disclosure on DFS, provide for the development of Financial Literacy and Consumer Education materials on DFS and ensure evidence driven DFL approach amongst others

DFS awareness principles

Digital Financial Services providers are required to comply with the following six (6) principles:

i. Promote DFS Awareness and Education
ii. Disclosure, Transparency, and User Privacy upon Service Adoption.
iii. Product Usability and Market Testing
iv. Fraud Prevention and Risk Management
v. Awareness and Access to Redress and Complaints Handling
vi. Monitoring and Evaluation

Expected results of DFS Awareness Guidelines

The development of the DFS Awareness and its expected benefits is aimed at re-engineering the approaches of FSPs in implementing and adopting to the emerging risk and innovative trend of Fintech's and consumer preferences in the Financial Ecosystem.

Part of the mid and long-term outcome of the Guidelines includes:

- To ensure that adherence to the Guideline form part of the Bank's Consumer Protection Compliance Examination to strengthen the Market Conduct Supervision and compliance regime of FSPs on DFS.
- Be aligned with the ongoing Development of the National Fintech Strategy aimed at enhancing awareness and promotion of DFS at a more strategic level and implementation.
- Be part of all ongoing Financial Literacy, Consumer Education and Protection programmes with emphasis on developing knowledge and usage capabilities on DFS at the grassroots level.

The full version of this article, including references, can be found here.

The Portuguese measures taken to alleviate mortgage borrowers from rising interest

Contributors: Marta Araújo and Sara Rodrigues, Banco de Portugal

The Portuguese authorities recently approved temporary measures, in place until end-2023, applicable to mortgage credit borrowers affected by the sudden increase in interest rates. Those measures build on the already existing comprehensive legal and regulatory framework for the prevention and management of arrears.

Consumers are facing the impact of high inflation and rising interest rates. As a result of the sharply increasing and persistent inflation, central banks have been seeking to lower it back to target, readjusting monetary policy and reversing the trend of low interest rates. This has led to higher reference interest rates and an increase in borrowing costs for borrowers with variable rate contracts, especially mortgages. In Portugal, the vast majority of mortgage agreements are concluded with a variable rate, with Euribor being the most used reference rate (in 2021, 85 per cent of new mortgage agreements had a variable interest rate).

As mortgage credit instalments frequently represent one of the largest chunks of households' budget expenses, it was considered necessary to establish new preventive mechanisms against rising interest rates. The main goal is to anticipate risks and avoid default situations that may arise from the increase in the debt-to-income ratio, requiring institutions to implement specific procedures to assess this effect.

The recently approved regime applies to mortgage credit borrowers with outstanding amounts of up to 300,000 Euros and concluded with a variable interest rate.[1] Under this regime, it is considered that a borrower may be in financial distress when he/she has a debt-to-income ratio of at least 36 per cent stemming from a year-on-year increase of 5 percentage points (p.p.) in that ratio, or a rise of 3 p.p. in the reference interest rate compared to the conclusion date of the credit agreement. Borrowers with a debt-to-income ratio of at least 50 per cent may also be considered to be in financial distress.

For those borrowers, credit institutions shall assess their financial capacity and verify whether there is a risk of default on the credit agreement. This assessment must be carried out within 45 days after the applicable decree-law comes into force and subsequently, at least 60 days before the review of the contracted interest rate.

Credit institutions shall also carry out such assessment when the borrower alerts for a pre-arrears situation.

Once it establishes that the bank customer is in a pre-arrears situation but has the financial capacity to avoid default, the credit institution proposes solutions suitable to their financial situation, objectives and needs.

The proposals presented by the credit institutions may include the consolidation of several credit agreements or a new credit agreement to refinance the debt, an extension of the repayment period,

[1] Decree-Law No 80-A/2022, of 25 November 2022 (available in https://files.dre.pt/gratuitos/1s/2022/11/22802.pdf).

the application of a grace period, the deferral of part of the capital to an instalment at a future date or a reduction in the interest rate applicable to the credit agreement for a defined period.

If there is an extension of the repayment period, the bank customer may, during that period, ask the institution to resume the previous payment plan. During the first five years of the extension, institutions are required to inform bank customers of this right on an annual basis.

Credit institutions shall not charge fees or increase the interest rate on the credit agreement as a result of renegotiating the terms of the agreement.

Under the same regime, Portuguese authorities also approved the suspension of the early repayment fee for variable rate mortgage credit regardless of the amount of the outstanding debt. This measure will also be in place until 31 December 2023.

The possibility of penalty-free early redemption of savings plans was also approved (education saving plans and pension-education saving plans), until the 31 December 2023, up to the limit of around 450 Euros. This limit considers the Portuguese reference amount for social support that serves as reference for benefits and other social assistance payments. Bank customers can use these funds for any purpose, including the repayment of credit agreements. Credit institutions must disclose and inform bank customers of this option.

These temporary measures complement the very comprehensive legal framework on the prevention and management of arrears[2] already in force since 2013. This framework establishes the Pre-Arrears Action Plan, which already foresaw institutions' obligation to monitor their customers' credit agreements, carrying out the necessary procedures to identify any signs of payment difficulties. This was reinforced in 2021[3] to strengthen arrears prevention duties and to mitigate the impact from exiting the credit moratoria granted in the context of the COVID-19 pandemic. When a borrower is in arrears, financial institutions must start the Out-of-Court Arrears Settlement Procedure, which is a negotiation model aimed at facilitating an agreement between the bank customer and the credit institution, without going to court.

The Banco de Portugal oversees institutions' compliance with the legal and regulatory framework applicable to mortgage credit borrowers, including those governing the prevention and management of arrears. The Banco de Portugal will keep monitoring credit market developments, remaining vigilant in their impact on financial consumers.

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[2] Decree-Law No 227/2012 of 25 October 2012 (available at https://clientebancario.bportugal.pt/sites/default/files/relacionados/noticia/Decree-Law%20No%20227_2012%20of%2025%20October.pdf).

[3] Decree-Law No 70-B/2021 of 6 August 2021 (available at https://files.dre.pt/1s/2021/08/15201/0000400028.pdf (in Portuguese only)).

Publications

Financial Services Regulatory Authority of Ontario (FSRA)

FSRA recently published a Consumer Research Study that was undertaken in March 2022:

- 2022 Consumer Research Study full report
- 2022 Consumer Research Study highlights

CGAP

See below links to various recent CGAP publications:

- Reading Findex with A Consumer Protection Lens
- Consumer Advisory Panels: A Tool to Bridge the Regulator-Consumer Gap
- Growth of Digital Finance in Côte d'Ivoire is Not Without Risks
- Agent Networks at the Last Mile: Implications for Financial Regulators

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/

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