FinCoNet
INTERNATIONAL FINANCIAL CONSUMER PROTECTION ORGANISATION

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Welcome to the FinCoNet newsletter

Welcome to the second 2019 edition of the FinCoNet Newsletter.

This edition of the Newsletter is published under the authority of the new interim Chair of FinCoNet, Ms. Maria Lúcia Leitão (former Vice Chair) following the resignation of Ms. Lucie Tedesco from her position as FinCoNet Chair on 31 May.

FinCoNet executives and members express their most sincere gratitude to Ms. Tedesco for her leadership as Chair of FinCoNet.

Under Ms. Tedesco's guidance, FinCoNet has grown and matured, and has firmly established itself as an internationally recognised forum for financial consumer protection supervisors.

FinCoNet wishes Ms. Tedesco well for her future endeavours!

In focus

Update on the revised OECD Council Recommendation on Consumer Protection in the field of Consumer Credit

On 2 July, 2019, the OECD Council adopted the Recommendation on Consumer Protection in the field of Consumer Credit which updates and replaces the 1977 Recommendation concerning Consumer Protection in the Field of Consumer Credit.

Since the adoption of the 1977 Recommendation, the size and nature of the consumer credit market in all jurisdictions has grown and changed significantly. There have also been significant developments in the approach taken by jurisdictions to the regulation and supervision of consumer credit markets, including, for example, the introduction of measures relating to:

- Promoting the equitable and fair treatment of consumers
- Responsible business conduct such as;
  - promoting responsible lending,
  - prohibiting misleading or abusive practices,
  - provisions relating to the features and characteristics of particular credit products,
  - measures to protect consumers who may already be over-indebted or particularly vulnerable,
- Promoting a competitive market for consumer credit products.

Between 2017-2019, the OECD carried out a comprehensive review and update of the 1977 Recommendation, led by the G20/OECD Task Force on Financial Consumer Protection (the Task Force). Members of FinCoNet were consulted at various points during the review process and the Task Force was very grateful for the thoughtful and relevant feedback received from the Organisation.

The Recommendation, following the structure of the G20 High-level Principles on Financial Consumer Protection, sets out high-level, and up-to-date recommendations for Adherents. The Recommendation will also be open to non-Member adherence and all jurisdictions are welcome and encouraged to use the Recommendation as a basis for a consumer credit protection regime where this is not the case.

Updates to FinCoNet membership application process and criteria

At the FinCoNet Open Meeting on 27 March, FinCoNet's Governing Council approved the implementation of enhanced membership criteria, including a revised membership application form, for prospective members of the Organisation.

Going forward, applicant organisations will be required to complete a questionnaire that is designed to provide FinCoNet's Governing Council with additional relevant information about an applicant organisation's financial consumer protection framework, and their role within it. The questionnaire is structured around the G20 High-level Principles on Financial Consumer Protection, which are an international baseline standard for effective financial consumer protection frameworks, which will serve as a baseline to assist the Governing Council in assessing applications.

Additional membership criteria include declarations committing to support the objectives and mission of FinCoNet and a declaration that the applicant organisation does not, and will not, while a Member of FinCoNet, engage in any commercial activity and that it is not subject to any commercial influence.

For more information about FinCoNet's revised membership criteria and application process please contact Sally.DAY-HANOTIAUX@oecd.org or Peter.GILLICH@oecd.org at the FinCoNet Secretariat.

Crypto tokens remain a risk for consumers: a warning from BaFin and the Federal Criminal Police Office

EBA and ESMA advise European legislators to establish clear regulation

BaFin has qualified payment tokens such as bitcoin as units of account and therefore as financial instruments for supervisory purposes, in accordance with the German Banking Act (Kreditwesengesetz – KWG). In fulfilling its duty to protect the collective interests of consumers, BaFin highlighted the risks of payment tokens in an article on illegal investment schemes published in December 2018, and in a joint warning issued together with the Federal Criminal Police Office (Bundeskriminalamt – BKA).

In mid-January 2019, the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA) published reports with advice regarding crypto tokens. EBA concluded that currently, crypto tokens do not pose a risk to European financial stability due to the relatively low level of activity, but EBA does warn of the consumer risks posed by crypto tokens. EBA believes that national regulations implemented by individual member states may risk preventing fair competition. ESMA notes that investors are exposed to considerable risks in markets where crypto tokens are not yet subject to any regulation.

ESMA advocates for establishing anti-money laundering regulations and appropriate disclosure requirements at the EU level.

Australian Royal Commission into Misconduct in the Banking Industry releases final report

The Australian Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry has now concluded. Commissioner Hayne's final report and the Australian Government's response were publicly released on 4 February 2019.

The Commission made recommendations in relation to seven core areas of banking, including consumer lending (direct and through intermediaries), access to banking services, lending to small and medium enterprises, enforceability of industry codes and processing, and administrative errors. The Commission also examined the regulators' roles, conduct and the enforceability of the law.

The final report made 76 recommendations and 24 referrals for potential criminal conduct, including conduct by three of the major banks. Commissioner Hayne found that the primary responsibility for misconduct in the financial services industry lies with the financial services entities concerned and their boards and senior management. Key themes included culture, governance and remuneration practices.

Current issues forum

Applying behavioural research to consumer protection

Contributor: CGAP

CGAP Publications: Insights for Consumer Protection Policy

CGAP has worked with researchers and policy makers in more than 10 countries to apply behavioural science methods and insights to consumer protection solutions. Our research demonstrates the many ways in which behavioural research can better align policies with actual consumer behaviour. In the Philippines, feedback from microfinance customers helped the government design a loan cost and terms disclosure form that was easier for customers to understand. In Malaysia, mystery shopping informed policy actions on disclosure and sales practices in the life insurance industry. Successes like these and many more show that behavioural research should be a mandatory aspect of any consumer protection policy framework. The following publications reflect the results of CGAP research on the topic.

Toolkit: Mystery Shopping for Digital Financial Services

This toolkit provides practical, easy-to-use guidance on the process that a regulator or supervisor and a research firm can use for conducting a mystery shopping study to gain deeper understanding of digital financial services. An exercise conducted in Zambia is used throughout as an illustration.

Technical Guide: Mystery Shopping for Financial Services

This guide provides information on how to design, execute – either directly or through a research firm – and analyse mystery shopping exercises for financial services. It is based on research conducted by CGAP, World Bank, development agencies and financial supervisors in seven emerging markets.

Focus Note: Applying Behavioural Insights in Consumer Protection Policy

This Focus Note presents emerging evidence on selected behavioural biases relevant to financial consumer protection, their consequences, and how market conduct regulation and other measures might best reduce abuse and produce better services and ultimately better outcomes for consumers. It also proposes specific ways to incorporate insights from behavioural research into policy-making and the implementation of consumer protection regulation and supervision.

Blog series: Using Behavioural Research for Better Consumer Protection Policy

Policy makers in emerging markets are only recently starting to use behavioural methods to address consumer protection challenges. Making financial markets fair for poor consumers can be difficult, but there are some straightforward ways in which consumer protection policy can be more effective when it is based on insights into consumers' behaviour.

Training Modules for Policy Makers

CGAP has created a series of five learning modules to provide an overview of how policy makers, regulators and supervisors can use behavioural research to inform actions on a range of consumer protection issues, including transparency, recourse, fair treatment and financial capability. The modules include many real-life examples to illustrate how regulators and supervisors can use behavioural research tools. After reviewing these modules, you will have the basic knowledge you need to begin developing your own behavioural research policy, regulatory or supervisory project.

[Module 1: Introduction to Behavioral Policymaking]

[Module 2: Disclosure and Transparency/Lab Testing Tools]

[Module 3: Recourse and Complaints Handling]

[Module 4: Fair Treatment and Sales Practices - Mystery Shopping]

[Module 5: Financial Capability]

Find out more at: https://www.cgap.org/topics/collections/behavioral-research

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A new authority with a new mandate – The FSCA publishes the first Conduct Standard for Banks, June 2019

Contributor: Financial Sector Conduct Authority (FSCA), South Africa

The Financial Sector Conduct Authority (FSCA) (formally the FSB) officially came into being on 1 April 2018 and its establishment marked the start of a new, more holistic and intensive approach to regulating the conduct of financial institutions operating in South Africa. The focus of the new Authority will be more on how the industry treats financial customers and on how they support the efficiency and integrity of the financial markets.

The FSCA has an expanded mandate and scope; it now has the responsibility for regulatory oversight over all financial institutions, products and services that previously were not under the Financial Services Board's jurisdiction. Newly mandated areas include for example a responsibility to regulate and supervise the conduct of banks, payment services and services related to credit.

Even though many aspects of the new functions will be addressed in future regulatory, supervisory and enforcement frameworks and organisational design, in the medium term some of the significant new functions of the FSCA will be to gradually roll out a comprehensive market conduct regulatory and supervisory framework for the banking sector. Meaningful supervision of the conduct of banks will require an enforceable market conduct regulatory framework against which the FSCA can measure the conduct of banks.

The FSCA previously only had oversight in the banking sector over the advisory and intermediary services provided by banks in their capacity as financial services providers under the Financial Advisory and Intermediary Services Act, 32 of 2002 (FAIS Act). FSCA also oversaw the provision by banks of tax-free investment products and, to a certain degree, the relationship between banking and non-banking products and services within existing bancassurance models. Areas that were previously not subject to regulatory oversight such as the conduct of banks with their consideration of fair outcomes, such as their design, servicing and performance of transactional bank accounts will now come under the spotlight.

The most important step in establishing this new function is the development of conduct standards for the banking sector. To this end the FSCA in May published its first draft Conduct Standard for Banks for public comment. The aim of this first draft Conduct Standard applicable to banks was to establish requirements that are predominantly high level. The draft Conduct Standard includes some more detailed requirements, such as Complaints Management. These requirements result from general cross-sector consultations conducted as part of the roll out of the Treating Customers Fairly (TCF) regime by the former Financial Services Board (FSB). The draft Conduct Standard was designed to follow the sequencing of the six TCF Outcomes and the sequencing of the typical financial product lifecycle where possible.

The various requirements set out in the draft Conduct Standard were directly informed by the TCF Outcomes as follows:

- TCF Outcome 1: Customers are confident that they are dealing with financial institutions in which the fair treatment of customers is central to their culture. To this end, section 3 of the draft Conduct Standard sets out the manner in which banks would be expected to demonstrate that fair customer treatment is central to their culture, and that they have implemented governance and oversight frameworks.
- TCF Outcome 2: Products and services marketed and sold in the retail market are designed for and targeted to identified customer groups. The application of the draft Conduct Standard is not limited to retail financial customers but section 5 of the draft Standard is limited to this segment. Section 4 proposes to regulate the design, suitability and performance requirements for financial products and services. Section 4 deals with the oversight arrangements that a bank must have in place to ensure that the objective of TCF Outcome 2 is met.
- TCF Outcome 3: Customers are provided with clear information and kept appropriately informed before, during and after the point of sale. Section 6 of the draft Conduct Standard sets minimum standards for advertising, including the governance processes that must be in place for the approval of advertisements. Section 7 sets out the disclosures required to ensure that financial customers are aware of and understand all the relevant facts that could reasonably be expected to influence their decisions relating to the financial product or service.
- TCF Outcome 4: Where advice is given, it is suitable and takes account of customer circumstances. Section 7 of the draft Conduct Standard identifies the factors that need to be taken into account when making disclosures to financial customers, such as the nature and complexity of the financial product. The aim is to ensure that financial customers are given appropriate information about a financial product or service at the point at which the information will be most useful to the their decision-making.
- TCF Outcome 5: Products perform as firms have led customers to expect, and service is of an acceptable standard and as they have been led to expect. Section 5 of the draft Conduct Standard is only applicable to retail financial customers and sets standards for the prohibition of unfair product terms and conditions, including additional product design standards only applicable to this market segment.
- TCF Outcome 6: Customers do not face unreasonable post-sale barriers

imposed by firms to change products, switch providers, submit a claim or make a complaint. Section 8 of the draft Conduct Standard is more rules-based than the rest of the draft Conduct Standard. Section 8 deals with the Complaints Management Framework banks must establish, including appropriate training of responsible staff, the categorisation of complaints and other procedures. Sections 9 and 10 of the draft Conduct Standard deal with account closure and switching, as initiated by the bank or the financial customer.

The intention is that these requirements will complement other regulatory requirements already imposed on banks by other financial sector laws. The requirements have been crafted to avoid inconsistencies with other regulatory requirements already in place.

The draft Conduct Standard balances principles-based and rules-based requirements to ensure that banks deliver fair customer outcomes in a disciplined, transparent and consistent manner. To manage compliance with the requirements of the draft Conduct Standard, banks will be expected to design and implement appropriate governance arrangements and other control mechanisms to ensure that fair treatment of customers is central to their organisational culture. Banks will be required to demonstrate to the FSCA that fair outcomes for customers are consistently delivered when providing financial services and financial products to customers.

Industry stakeholders and the public at large now have an opportunity to comment on the draft Standard. The FSCA will then consider the comments and either publish an updated Standard for comment or publish the final Standard for implementation, depending on the materiality of the comments received.

It is unlikely that the draft Conduct Standard adversely impact consumer choice, the quality of banking products or services, or the efficiency of providing banking products and services. The draft Conduct Standard is likely to lead to improved outcomes for customers due to better disclosure, and the requirement that product offerings must be designed and targeted to appropriate customer groups.

To read more about the Financial Sector Conduct Authority's banking Conduct Standard, click on the link below:

https://www.fsca.co.za/Regulatory%20Frameworks/Pages/Banks.aspx.

Fight against illegal Indonesian Fintech lending services

Contributors: Aldi Firmansyah Rubini and Maria Goretti, Indonesia Financial Services Authority – OJK

The digitization of the financial services sector in Indonesia is having a significant impact on consumers, industry, and economic development. Regulating and supervising the online lending industry is one of the major challenges faced by Indonesia Financial Services Authority (OJK).

The rise of online-based lending services, including Peer-to-Peer (P2P) Lending, has put more pressure on OJK as the regulator and supervisor of the financial services sector. For example, as of May 2019, OJK had received 15,592 inquiries and complaints from Fintech lending consumers. The behaviour of some Fintech providers has caused a massive outcry, as debt collectors often intimidate or threaten borrowers. The debt collectors hired by the providers also contact the customer's neighbours and relatives, although the customers had never provided information on their relatives or neighbours.

OJK recognizes that many of the financial technology providers and online lending platforms ~~it monitors~~ are operating in Indonesia illegally. The majority of the illegal service providers have server bases in the United States, Singapore, China, and Malaysia. Most of the illegal Fintech providers often steal data from their clients' smartphones, including photos, videos and contact lists, making these clients prone to abuse. The illegal providers do not respect anyone or any rule. Huge numbers of Indonesians have become borrowers from illegal Fintech lending providers, increasing the challenge for OJK.

OJK and the Investment Alert Task Force have identified 543 unlicensed Fintech companies offering P2P lending so far this year, compared with 404 entities in 2018. Some of them may be in the process of obtaining licenses, while many are operating illegally.

OJK has also recorded some unregistered Fintech lending mobile applications in Google Play. Google is now trying to collaborate with the regulators to qualify these applications. Along with the Indonesia Ministry of Communication and Informatics, OJK is exploring online loan distribution from illegal Fintech lending mobile applications available on Google Play. Since 2018 there have been 947 illegal Fintech lending providers recorded and blocked by the Investment Alert Task Force.

As hundreds of customers have started to deal with these aggressive activities, including debt collectors abusive actions of illegal Fintech providers, OJK together with the Indonesian Fintech Lending Association (AFPI) are starting to realize the importance of joining forces against these illegal P2P lending providers. To address the issue, OJK has appointed Indonesia's Fintech Association (AFPI) as the official association partner for all Fintech lending activities in Indonesia. Together with AFPI, OJK will monitor registered Fintech lending provider activities to ensure compliance with OJK regulation of IT-based lending services, and AFPI Code of Conducts for P2P lending providers.

OJK has collaborated with AFPI, other ministries and institutions to ban the applications of illegal Fintech providers. However, they soon republish their mobile applications under different names.

To tackle the challenges, OJK is developing a market conduct supervision framework that includes supervision methodology and sanctions. This effort will facilitate OJK's coordination of Fintech supervision and its enforcement of market discipline related to consumer protection regulations.

OJK also needs to increase and improve its human resources with additional staff having skills related to the supervision of digital financial products or services. OJK will also undertake capacity building activities with information technology, forensic audits and market conduct supervision.

In addition, OJK launched a digital technology based financial services application called OJK-Box (OBOX). This application is intended to strengthen the supervision of the financial services sector, starting with the banking sector. The OBOX development is the first step in OJK's move towards a technology-based supervisory paradigm. In the future, on-site examination activities will focus more on confirmation of the results based on data analysis done by the application.

The challenges caused by Fintech lending activities arise from both business and borrowers. Some borrowers have more than one active online loan. OJK found one borrower had more than 20 active online loans. To mitigate consumer over-indebtedness, OJK and AFPI plan to build the Fintech Lending Data Center (FLDC) which will support loan distribution risk management in three ways. First, FLDC can indicate fraud risk. The provider can check through the FLDC whether the prospective borrower has committed fraud and decline loans accordingly. Second, the FLDC provides information on blacklisted borrowers, including people not paying loans for more than 90 days. Borrowers can be excluded from the list once they pay off the debt. Third, FLDC may identify those who borrow from more than one Fintech lending company which may be a consideration in approving the loan request. Another challenge facing OJK is to maintain consumer confidence in online lending practices by educating consumers to choose authorized or registered Fintech lending platforms wisely. As we work through these challenges we acknowledge that industry has helped the development of small and medium enterprises in Indonesia.

AFM takes national product intervention measures

Contributors: Cindy van den Hooff, Dutch Authority for the Financial Markets

In The Netherlands, the Dutch Authority for the Financial Markets (AFM) is responsible for the conduct supervision of the entire financial market sector. In order to ensure a sustainable financial system, the AFM promotes fair and transparent financial markets. One of the AFM's measures to achieve this goal is through product intervention. The AFM received product intervention powers through the introduction of MiFID II and MiFIR in early 2018.

As of 19 April 2019, the marketing, distribution or sale of Binary Options to retail investors in and from The Netherlands is prohibited; the marketing, distribution or sale of CFDs to retail investors in and from The Netherlands is restricted. This was the first time that the AFM used product intervention measures.

The AFM's national product intervention measures mirror those of the European Securities and Markets Authority (ESMA). These measures are applicable to investment firms based in The Netherlands as well as to investment firms from other EU member states active in The Netherlands trough a branch or by means of the European pass porting regime. The AFM is one of the first European regulators that introduced these national measures. The AFM's product intervention measures are permanent.

The introduction of these measures has raised new supervision challenges. For example, the distribution of CFDs regularly takes place in an online environment, often in closed channels (i.e. social media) which are difficult to monitor. Furthermore, online distribution rarely stays within country borders. Due to cross-border elements and the home/host division within the EU, collaboration amongst EU member states in enforcement is increasingly important.

New regulation as of 2019 aimed at individual borrowers facing difficult circumstances

Contributors: Bank of Russia

On 1 May 2019 the Federal Law No. 208-FZ entitling individual borrowers facing difficult circumstances to mortgage payment holidays was adopted and it will come into force on 31 July 2019.

In order to protect mortgage borrowers' rights, the new regulation entitles borrowers facing difficult circumstances to ask lenders to establish a grace period of up to six months. During this time, the borrowers, at their own discretion, could either suspend or decrease payments.

The new regulation stipulates conditions when borrowers will be entitled to mortgage payment holidays as long as:

- the loan amount does not exceed the threshold set by the Russian Government taking into account regional specifics (maximum 15 million rubles before setting such a limit);
- borrowers have not previously exercised their right with respect to their loan agreements;
- the mortgage is extended with respect to individuals' only housing; and
- borrowers are facing difficult circumstances.

According to the new regulation, the term 'difficult circumstances' covers events such as:

- borrowers' loss of employment;
- borrowers' recognition as a group I or II disabled;
- borrowers' temporary disability for a period of over two months;
- borrowers' average monthly income drops by over 30% with average monthly mortgage payments making up more than 50% of it; and
- the number of persons dependent on the borrower or group I or II disabled persons under the borrower's care increases at the same time as the borrower's average monthly income drops by over 20% with average monthly mortgage payments making up more than 40% of it.

According to the new regulation, the lender must review the request for a grace period within five business days.

In accordance with the proposed amendments, interest continues to accrue on the outstanding loan balance during mortgage payment holidays. The balance is fixed and must not be increased.

When the grace period is over, borrowers must resume payments in line with the original terms with respect to the payment amount, and the number and frequency of instalments.

Payments that were to be made by the borrowers according to the original terms but were missed due to the grace period will be made at the end of the term of the loan agreement. The loan term will be increased in line with the period of payment holidays.

During the grace period, the mortgaged property cannot be foreclosed, and the fact that borrowers used their right to a mortgage payment holiday will not affect their credit history.

The regulation also governs issues related to the circulation of mortgages and mortgage-backed securities in cases where a mortgage payment holiday has been undertaken.

The regulation is aimed at increasing borrowers' confidence that they will be able to fulfil their obligations under mortgage contracts.

Digitalisation of financial services – the 2nd Portuguese survey

Contributor: Filipa Albano, Banco de Portugal

As part of its banking conduct supervision mission, Banco de Portugal adopted a comprehensive strategy regarding to the digitalisation of financial products and services. An ever more diverse range of financial products and services is available through digital channels, both online (through banks' online banking platforms or other platforms) and via mobile (through apps developed for mobile devices). The strategy adopted by Banco de Portugal responds to five challenges: (i) to keep track of technological innovation; (ii) to monitor the offering of products and services through digital channels; (iii) to remove barriers, adjusting the regulatory framework in line with technological innovation; (iv) to ensure technological neutrality, affording the same rights to customers irrespective of the channel used to conclude banking products and services contracts; and (v) to promote digital financial education.

Banco de Portugal carried out the first survey on financial products and services provided through digital channels at the end of 2016, as part of monitoring the offer in these channels.[1] The second survey on financial products and services provided through digital channels was carried out in December 2018.[2] These surveys were sent to the main institutions operating in Portugal, collectively representing 95% of the market for current accounts and consumer credit.

The surveys were designed to monitor the provision of digital channels in Portugal, follow customers' adoption and usage levels, assess the procedures made available by the institutions in offering financial products and services, understand the security procedures adopted by the institutions and identify any constraints on these channels' development. The second survey also identified trends in the offering of products and services through digital channels between 2016 and 2018.

Institutions promote the provision of mobile apps.

Compared to 2016, the share of institutions providing digital channels to their customers increased in 2018, particularly the mobile channel. Over the next two years this trend

[1] The report on the commercialisation of banking products and services on digital channels in Portugal, with the results of the first survey on financial institutions held in 2016, is available on the Bank Customer Website, at https://clientebancario.bportugal.pt/en/publicacao/commercialisation-banking-products-and-services-digital-channels-portugal-2016.

[2] The report on the commercialisation of banking products and services on digital channels, with the results of the second survey on financial institutions held in 2018, is available on the Bank Customer Website, at https://clientebancario.bportugal.pt/pt-pt/publicacao/comercializacao-de-produtos-e-servicos-bancarios-nos-canais-digitais-em-portugal-2018 (in Portuguese only but shortly also in English).

is expected to continue, especially the provision of mobile apps for private customers.

According to the survey results, most institutions had digital channels for providing financial products and services to their customers at the end of 2018. Around 90% of the institutions provided an online channel to their private customers and around 70% also offered mobile apps. The provision of digital channels for corporate customers was a little lower.

The institutions continued to mention customers' loyalty as the main reason for providing banking products and services through digital channels.

Usage levels of digital channels continued to be far lower than adoption levels.

Customers' adoption levels of digital channels are significant, but in 2018, the usage levels continued to be far lower than adoption levels. Even so, customers used digital channels more in 2018 than in 2016, especially mobile apps.

Customer perception of security risks and the lack of financial and digital literacy among users were the reasons identified by the institutions as the main obstacle to greater usage of digital channels.

The institutions worry about security and use various mechanisms to protect themselves.

Phishing attacks were identified by almost all the institutions as the greatest risk to security in the usage of digital channels. Most institutions used five or more security procedures simultaneously to combat security risks. In general, the institutions encrypted information, timed out sessions due to inactivity, or sent a one-time password (OTP) or token to the customer.

The institutions also use strong customer authentication in the provision of payment services through digital channels. Strong customer authentication is based on the use of two or more elements categorised as knowledge (something only the user knows); possession (something only the user possesses); and inherence (something the user is). According to the survey, for strong customer authentication through the online channel, institutions often use passwords defined by the customer (something only the customer knows), together with a random code (OTP/token) sent by the institution (something only the customer possesses).

In mobile apps, institutions tend to use validation of the customer's biometric data (inherence) together with a random code (something the customer possesses). Since 2015, payment service providers in Portugal have had to adopt strong customer authentication procedures for payments made through the internet.[3] Since September 2019 this requirement covers online access to payment accounts, initiation of electronic payment operations and completion of actions, through remote channels, which could involve a risk of fraud in the payment, or other abuses. These protections result from the application of the regulation setting the technical requirements for strong customer authentication under the revised Payment Services Directive (PSD2).[4]

[3] Cf. EBA Guidelines on the security of internet payments, available at https://eba.europa.eu/documents/10180/934179/EBA-GL-2014-12+%28Guidelines+on+the+security+of+internet+payments%29.pdf/f27bf266-580a-4ad0-aaec-59ce52286af0.

[4] Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing PSD2, in regard to the regulatory technical standards for strong customer

Most institutions provide information about risks and security procedures to their customers when they sign up to digital

channels, and continue to provide this information thereafter, namely through pops-ups or banners in the online channel, or by sending the customers emails or newsletters.

Accounts can be opened fully digitally.

According to the survey, in 2018 it was possible to open a current account fully digitally in 25% of the banks through the online channel, and in 32% through the mobile channel. This is expected to be possible in the majority of institutions within two years. Current accounts are currently opened through these channels by assisted videoconference or with the help of qualified trust service providers. In the future the institutions also plan broad usage of the digital mobile key.[5] In Portugal, accounts could be opened fully digitally since 2017, when Banco de Portugal changed the applicable regulatory framework and set very specific rules for proving the customer's identification elements in digital channels. These rules ensure compliance with anti-money laundering and counter terrorist financing obligations.

The institutions often use call centres, FAQs and tooltips to provide support to customers opening accounts digitally, but most have plans to use chatbots in the next two years. These are also the support mechanisms used the most for the other banking products and services.

Personal credit and credit cards were the consumer credit products with the greatest number of contract processing stages provided through digital channels.

In 2018, 19% of institutions could provide consumer credit contracts fully digitally through the online channel, and one institution offered this through the mobile channel. Credit cards and personal credit were the consumer credit products with the greatest number of stages provided through digital channels. In the next two years, significant increases in functions related to car credit contracts are expected.

Banco de Portugal has systematically monitored the offering of consumer credit through digital channels. As part of this, in 2018, Banco de Portugal required the institutions to start reporting information on the process for contracting credit products to consumers through digital channels.[6] This information allows Banco de Portugal to monitor the evolution of this market and to oversee compliance with the applicable regulatory framework, ensuring that the customers' rights are protected in digital channels (technological neutrality principle).

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authentication and common and secure open standards of communication.

[5] The digital mobile key is a means of authentication for citizens in websites and of qualified electronic signature, under the terms of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014.

[6] Through Circular-Letter CC/2018/00000004.

In 2018, the institutions often used OTPs or passwords set by the customer when concluding consumer credit contracts through digital channels. However, the institutions mentioned plans to require customers' qualified digital signature or biometric data more often in the next two years.

Payment services in digital channels are going to undergo significant development.

Currently, payment services are widely available through digital channels, including transfers, direct debit management and payment for services.

From September 2019, the range of payment services offered through these channels is expected to widen further. The institutions have plans to provide payment initiation and account information services pursuant to PSD2 through open banking application programming interfaces (APIs) developed for the purpose.

On-site supervisory action in bank branches by Banco de España

Contributor: Berta Lopez, Banco de España

Market conduct and financial consumer protection are priorities for Banco de España. The Market Conduct and Claims Department is responsible for this significant function, carried out by its Division for Oversight of Institutions' Conduct (hereafter, the Division), which is focused on the commercialization of banking products at the points of sale.

Within the framework of its 2019 Supervisory Program, the Division has recently developed a challenging supervisory action to verify financial institutions' compliance with certain transparency and information obligations. The supervisory action involves surprise visits to bank branches open to the public of a group of supervised entities, a method that has already been used in previous inspections, but always referred to of individual entities. This supervisory action has an ambitious scope attending to both, subjective and objective components.

- The subjective component involved surprise visits to branches of twelve of the major financial entities in Spain. The surprise visits were conducted by two-person teams of accredited Banco de España employees. The visits took place simultaneously in various locations in Spain. During the visits, teams requested assistance from the director or another representative of the bank branch to collect certain information and documentation for the purpose of the supervisory action.
- The objective component focused on aspects that are strategically important to preserving public confidence in the financial system. The supervisory action consisted of assessments of the appropriateness of precontractual information provided to consumers with regard to mortgage loans, personal loans and revolving credit cards; the advertising of banking products and services; the information provided about the costs associated with the cancellation of mortgage loans; the special measures that may be implemented for restructuring mortgage loans of debtors facing

economic difficulties;[1] the complaints handling services financial institutions have in place; and the cash service they provide and its possible restrictions.

The Division has completed its analysis of the information and documentation collected. The findings will be communicated to the twelve supervised entities in order to reinforce compliance with their obligations related to transparency and consumer protection.

In general, the main weaknesses observed relate to precontractual information about banking products, and to the advertising brochures and posters available and displayed in branches.

The evidence obtained from this on-site supervisory action has provided fundamental input to the Division's supervision of the relationship between financial entities and their customers. In fact, it has also had an impact on the national press, which highlighted the importance of supervision being exercised at street level, with supervisors making first-hand assessments of the information financial entities provide to their clients.

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 practices and clear disclosure to consumers of financial services.

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[1] The Spanish legal framework includes a specific regulation on urgent measures for protection of mortgage debtors without resources (Royal Decree-law 6/2012 of March 9th).