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Welcome to the FinCoNet newsletter

Welcome to the first 2019 edition of the FinCoNet newsletter!

This year, FinCoNet will continue exploring issues relating to financial product governance, and culture, and financial advertising. These are important topics for supervisory authorities charged with the protection of financial consumers. This work is in addition to ongoing efforts on issues relating to high-cost lending and risk-based supervision in the digital age.

Moving into 2019, FinCoNet will also continue efforts to expand its membership. Interested parties are encouraged to contact the Secretariat [sally.day-hanotiaux@oecd.org] for further information on the benefits of FinCoNet Membership.

In focus

World Bank publication: Financial Consumer Protection and New Forms of Data Processing Beyond Credit Reporting

New sources of data and new ways to process data have contributed to an ongoing expansion in digital financial services. Such data can be used to design and market customer-centric products, create credit scores for consumers with limited credit histories, meet and facilitate know-your-customer requirements, and minimize the risk of fraud. Yet the availability and use of personal data in these ways can put individual privacy at risk. This [discussion note](#) provides an overview of benefits and risks arising from the use of new types of data and identifies areas for further research.

<http://responsiblefinance.worldbank.org/publications>

CGAP publishes toolkit to manage I-SIP objectives for policymaking



I-SIP Toolkit

**Inclusive Finance +
Stability
Integrity
Protecting Consumers**

How do you make financial inclusion an integral part of national financial sector policies and regulations without compromising the other core financial sector objectives?

This CGAP toolkit shows policymakers how.

"Leveraging the I-SIP approach aids in the development and implementation of policy decisions." —Central Bank of the Philippines



What is the I-SIP Approach?

Financial regulators and supervisors at the global and the country level long have recognized the importance of formal financial inclusion for social and economic development. The I-SIP approach provides a practical framework for policy makers to effectively manage the objective of advancing financial inclusion (I), alongside their other core objectives of financial stability (S), integrity (II), and consumer protection (P). It is based on CGAP's extensive research in Pakistan, the Philippines, Russia and South Africa.

How to Use the I-SIP Approach

The main idea is for regulators and supervisors to **identify** linkages between the I-SIP objectives and **manage** these linkages to design policies that lead to **improved outcomes**, where synergies between the objectives are maximized, and any trade-offs or negative outcomes avoided or minimized.

IDENTIFY LINKAGES

Firstly, consider all four policy objectives, their interrelationships, and how they can be mutually reinforcing. Managing all the objectives is important because failing on one can lead to problems with others.

SIX PAIRS OF THE LINKAGES AMONG THE I-SIP OBJECTIVES

- 1 INCLUSION ↔ STABILITY
- 2 INCLUSION ↔ INTEGRITY
- 3 INCLUSION ↔ PROTECTION
- 4 STABILITY ↔ INTEGRITY
- 5 INCLUSION ↔ PROTECTION
- 6 PROTECTION ↔ STABILITY

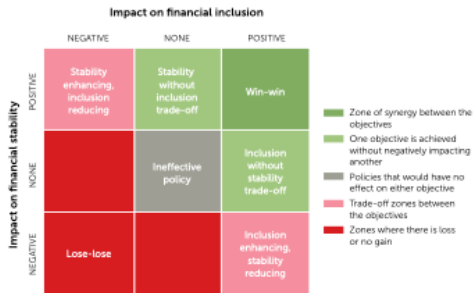
UNDERSTAND THEIR INTERACTION

The linkages help break the work into manageable pieces and enable you to analyze the direct effect of a policy intervention on one objective and the impact on different pairs of objectives (e.g., inclusion and stability, or inclusion and protection).

ANALYZE THE IMPACTS

There are three possible outcomes for each pair of linkages:

- **Positive**—one objective supports achieving the other;
- **Negative**—one objective achieved at expense of the other;
- **Neutral**—no effect on either objective.



APPLY TO THE FULL RANGE OF DECISIONS

You can use the I-SIP approach to evaluate existing laws, regulations or guidance, as well as for planned interventions, proposals or policy revisions.

ADAPT TO YOUR COUNTRY CONTEXT

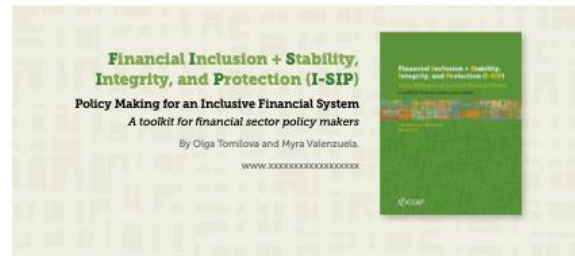
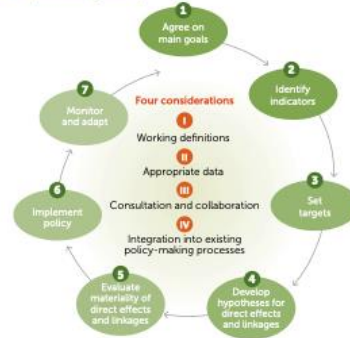
One country's experiences should not be used as a template for another country without accounting for country-specific factors.

I-SIP Approach in Action:

"A powerful tool that is helping South African policy makers to approach financial inclusion more systematically while strengthening the financial system overall. Highly recommended."

—Roelof Goosen, former Director of Financial Inclusion at South African National Treasury

The seven-step implementation process and four considerations to be applied along the way



Current issues forum

Microfinance: new caps for marginal debt value and daily interest rate

Contributor: Daria Silkina, Bank of Russia

In January 2019, Russia amended legislation to establish a new uniform limit for a borrower's marginal debt under a consumer loan agreement for a period of up to one year. The marginal debt may total no more than 2.5 times the sum of the respective loan. Once this amount is reached, the law prohibits further accrual of interest, penalties (fines), other payments and the application of other measures. The law stipulates that starting 1 July 2019, the limit will be set at the two-fold amount of the loan. Starting 1 January 2020, the limit will be 1.5 times the borrowed.

In January 2019 the interest rate was capped at 1.5 percent per day and the limit on the total cost of credit was set. Starting 1 July 2019, the daily interest rate will be reduced to 1 percent per day.

Taking into account the average amount of a payday loan, legislators introduced a special loan not exceeding 10,000 rubles for up to 15 days. The interest accrued on such a loan shall not exceed 3,000 rubles (or 30 percent of the original sum of the loan if the borrower has taken out less than 10,000 rubles for 15 days). The daily payment on such a loan shall not exceed 200 rubles. A lender may not extend such a loan or increase its original sum.

The new law also limits the number of potential assignees under a consumer loan agreement. For example, no creditor shall be allowed to assign debt collection rights to rogue debt collectors.

Special attention shall be given to the provision of the law that stipulates illegal creditors or illegal collectors shall lose the right to enforce, including in a court of law, the execution of a concluded consumer loan agreement or rights assigned under such an agreement.

The new standards represent a more streamlined system of financial consumer protection and include measures to address unfair practices related to payday loans and debt collection, thereby making the law especially timely and socially important.

Conduct of Business Returns¹ for the South African insurance industry

Contributor: Juanita Smit, Financial Sector Conduct Authority, South Africa

On 15 December 2016, after a period of extensive industry consultation, South Africa's former Financial Services Board² (FSB) published the Conduct of Business Returns³ (CBRs) template applicable to life and non-life insurers. The new reporting template is to be completed by all insurers, with the exception of re-insurers, captive insurers and insurers who offer life group risk, fund member, linked policies and non-life commercial lines policies. The FSB gave the industry a two-year phase-in period to adapt to the CBRs. As insurers' data and system capabilities evolve, this phase-in will afford them the opportunity to submit, in increments, specific quantitative data relating to identified market conduct risk indicators. FSB adopted this "best effort" approach in the expectation it would result in an adequate state of industry readiness for submission of full and complete CBRs by the end of 2018.

Since 2016, FSB/FSCA has held numerous engagements with insurers and reviewed documents such as a standardised project plan template to track industry readiness. The regulator published guidance notes to address industry uncertainty regarding CBR completion.

However, many insurers still do not have access to information that is critical to help identify market conduct risks inherent in their various business models. Due to the industry's demonstrated lack of readiness to submit full and proper CBRs, FSCA

extended the phase-in period by another year, until the end of 2019. On 1 February 2019 the Financial Sector Conduct Authority ("FSCA") published "*FSCA Communication 1 of 2019 (Insurance): Update on the implementation of the Conduct of Business Returns ("CBRs")*". The authority also released an updated version of the CBR template.

The purpose of the CBRs is to assist the FSCA to be more pro-active in their approach to supervision and they are an important off-site monitoring tool for the authority. They can help regulators verify information that insurers provide on various platforms and that relates to the manner in which individual insurers identify, manage and remediate potential market conduct risks. CBRs are also intended for use in identifying and monitoring industry-wide trends and customer risks that could be pre-empted through broader structural regulatory interventions.

The CBRs highlight the importance of system integration and quality data management across the entire business of an insurer to enable senior management and the board to identify and address market conduct risks. The returns further highlight opportunities for businesses to invest in technology to streamline their regulatory reporting obligations.

In future, the FSCA intends to extend CBR reporting to other sectors, including

¹ The Conduct of Business Returns are mandatory quantitative returns based on market conduct risk indicators for the insurance industry which will indicate trends, concerns and conduct of insurers and their partners that may affect fair outcomes to customers.

² Since 2018, the Financial Services Board has been known as the Financial Sector Conduct Authority.

intermediaries, banks and investment providers.

Banco de Portugal supervisory authority is extended to credit intermediaries

Contributors: Melanie Gomes, Rita Jorge Pinheiro and Sofia Duarte, Banco de Portugal

As of 1 January 2018, Banco de Portugal monitors and supervises the activities of credit intermediaries, as a result of the entry into force of the legal framework governing this activity.¹

The changes stem from the marked growth of credit intermediation, and related EU directives.

While credit intermediaries are not authorised to grant loans, they are natural or legal persons involved in marketing credit agreements. More specifically, credit intermediaries present or propose credit agreements to consumers. They may also enter into credit agreements on behalf of lenders, help consumers to prepare said agreements, and provide consultancy services.²

Due to the size and importance of credit intermediation in a number of European markets, several EU Member States have regulated it. In 2008, in the second Consumer Credit Directive,³ the EU authorities decided to subject credit intermediaries involved in consumer credit to the same pre-contractual information and assistance requirements as those applied to credit institutions, thereby recognising the role played by credit intermediaries and the risks associated with their involvement in

the credit market. Six years later, the EU authorities strengthened regulations on credit intermediaries by setting out in the Mortgage Credit Directive,⁴ a series of harmonised rules governing intermediaries' access to, and pursuit of mortgage-credit business.

In Portugal, credit intermediation has developed markedly, and now plays an important role in credit market functioning. By way of illustration, credit intermediaries marketed 45.4 percent of all consumer credit agreements concluded in 2017. Also, credit intermediaries have become the main marketing channel for certain products (car loans and revolving loans).

Taking into account the importance of credit intermediation, Portugal's legislator has regulated this activity across the board. It has established rules that, overall, are applicable to both credit intermediaries involved in mortgage credit and those involved in consumer credit. Furthermore, it gave Banco de Portugal extensive powers to monitor and supervise the market conduct of credit intermediaries.

¹ Approved by Decree-Law No 81-C/2017, of 7 July 2017.

² Examples of credit intermediaries in consumer credit are points of sale, such as car businesses and large general retailers. As regards mortgage credit, real estate agencies act very often as credit intermediaries.

³ Directive 2008/48/EC of the European Parliament and of the Council, of 23 April 2008, on credit agreements for consumers.

⁴ Directive 2014/17/EU of the European Parliament and of the Council, of 4 February 2014, on credit agreements for consumers relating to residential immovable property.

In compliance with the mandate entrusted to it by law, Banco de Portugal⁵ is responsible for approving and registering credit intermediaries, to fulfil the conditions set out under the law for the exercise of this activity.⁶ The central bank also handles public disclosure of information on the items subject to registration.

To apply for authorisation to carry out credit intermediation activities, interested parties must fill out the relevant form available on the bank customer website of Banco de Portugal.⁷ The application must be accompanied by the documents that prove compliance with the applicable legal requirements. These include, most notably, documents demonstrating compliance with the applicable legal requirements: adequate knowledge and skills, suitability, appropriate commercial and administrative organisation and the possession of professional indemnity insurance or other comparable guarantee.

In turn, registration is, as a rule, made by Banco de Portugal ex officio, being in charge of its implementation as well as the public disclosure of information on the items subject to registration.

The Portuguese government established a transitional period so that entities already engaged in credit intermediation as at 1 January 2018 could continue to do so up to 31 December 2018 without prior authorisation and registration with Banco de Portugal. In December 2018, the transitional period was extended to 31 July 2019.

Up to the end of February 2019, Banco de Portugal had received 5,565 applications for authorisation, of which 2,084 were approved and 305 were declined. At the end of

February, 2,022 credit intermediaries approved by Banco de Portugal had been registered, as well as 13 credit intermediaries authorised in other EU Member States which carry out mortgage activities in Portugal with the European passport.

Banco de Portugal is also responsible for monitoring credit intermediaries' compliance with applicable legal and regulatory requirements. These requirements include duties in terms of conduct and provision of information to consumers on credit intermediation services and the conditions under which they are provided.

Remuneration for the services rendered by credit intermediaries is also regulated. Non-tied credit intermediaries may only be remunerated by bank customers. Credit intermediaries that act on behalf of a lender and under the latter's responsibility (tied credit intermediaries and credit intermediaries in an ancillary capacity) may only be remunerated by the lender; the intermediary must not be paid in any way by consumers, either as compensation, fee or expense.

Rules were also introduced on the advertisement of services provided by credit intermediaries. The rules establish the conditions under which intermediaries may advertise the credit products they market. In its banking conduct supervisory tasks, Banco de Portugal may conduct inspections and require that credit intermediaries, as well as lenders to which they are tied, provide all information and documents the authority deems necessary to monitor compliance with the applicable legal and regulatory requirements. Banco de Portugal is also in charge of analysing complaints

⁵ Banco de Portugal's tasks in the monitoring and supervision of credit intermediaries are entrusted to the Banking Conduct Supervision Department.

⁶ Credit intermediation may also be carried out by credit institutions, financial corporations, payment institutions and electronic money institutions, which

may do so without the need for specific authorisation. Credit intermediaries authorised in other EU Member States involved in mortgage credit may also carry out activities in Portuguese territory, through a branch or under the freedom to provide services.

⁷ <https://clientebancario.bportugal.pt/en/authorisation>

submitted by customers of credit intermediaries. Where Banco de Portugal detects irregularities in the activity of credit intermediaries or lenders, it may issue

specific orders and, following an administrative proceeding, it may impose additional fines and penalties

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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