Issue 2 | May 2018

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Welcome to the FinCoNet Newsletter

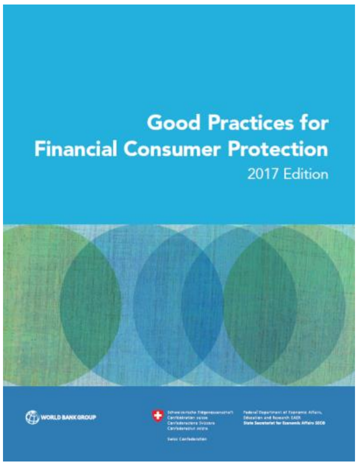
Welcome to the second 2018 edition of the FinCoNet Newsletter.

In March 2018, FinCoNet held an Open Meeting in Paris, France, during which the FinCoNet strategy and programme of work 2019/20 were discussed.

The FinCoNet standing committees also met in person and great progress was made on their work. It should be stressed that FinCoNet's key resource is its very active membership. Research projects are proposed, led and developed by country members organised into standing committees – ensuring excellent involvement in, relevance of and commitment to all projects undertaken.

In Focus

World Bank 2017 Good Practices for Financial Consumer Protection

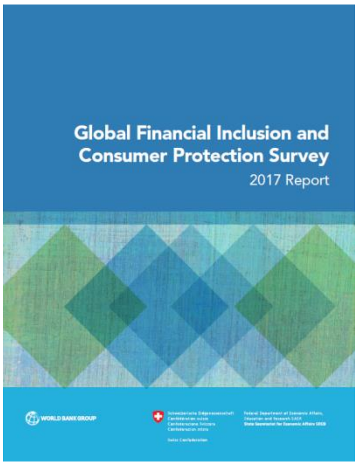


Financial consumer protection is a growing priority for policy makers around the world, as a policy objective and a variable in the healthy development of the financial sector, financial inclusion, and broader economic growth.

This World Bank publication synthesizes good practices for a range of financial consumer protection activities, drawing from international guidance, the latest research, and approaches used in various countries. It is intended to serve as a practical reference and assessment tool for policy makers seeking to enhance their financial consumer protection frameworks. 2017 Good Practices comprehensively updates and expands on the previous edition, with increased focus on priority areas such as supervisory techniques, effective disclosure, digital finance, and implementation considerations.

Please visit the 2017 Good Practices website to download the report and access additional information.

World Bank 2017 Global Financial Inclusion and Consumer Protection Survey



The Global Financial Inclusion and Consumer Protection (FICP) Survey tracks the prevalence of key policy, legal, regulatory, and supervisory approaches to advancing financial inclusion and financial consumer protection. Financial sector authorities in 124 jurisdictions – representing 141 economies – responded to the survey.

The 2017 Global FICP Survey covers key topics related to the enabling environment for financial inclusion and financial consumer protection, including national financial inclusion strategies, the issuance of e-money by nonbanks, agent-based delivery models, simplified customer due diligence, institutional arrangements for financial consumer protection, disclosure, dispute resolution, and financial capability.

Please visit the 2017 Global FICP Survey website to download the report and access additional information, including the country-level database.

FinCoNet Member – The Bank of Mauritius

The Bank of Mauritius officially joined FinCoNet in May 2016, with representation by its Deputy Governor.

The decision by the Bank of Mauritius to become a FinCoNet member was motivated by the central bank's desire to align protection of consumers of financial services in Mauritius with international best practices. Membership positons the Bank of Mauritius at the forefront of the latest international regulatory and supervisory developments occurring in the area of as regards consumer protection in the banking industry.

In this way, the Bank of Mauritius benefits from the know-how of peers, and is thereby equipped to take proactive steps toward improving the legal framework for and implementing consumer protection initiatives. Through involvement with FinCoNet, the Bank of Mauritius is also well placed to share its experiences.

Bank fees, charges and commissions are under increasing scrutiny in the aftermath of the global financial crisis, as banks – including Mauritius – seek to diversify their sources of income in a prolonged low-interest-rate environment. Over the last few years, the Bank received several complaints regarding fees, charges and commissions levied by banks. Section 6 (1) (w) of the *Bank of Mauritius Act 2004* already empowers the bank to regulate the fees or charges for services provided by financial institutions, and to impose such limitations on fees and charges as it may deem appropriate. The bank has recently set up a team to review banks' fees, charges and commissions to ensure they are fair to customers.

Several other local entities are engaged in protecting consumers in Mauritius. One of these is the Financial Services Commission, which is the independent regulator for non-banking financial services and global business. In addition to ensuring that investors are duly protected and their interests safeguarded, the commission is mandated to promote public understanding of the financial system, create awareness of the risks associated with different kinds of investments, and strengthen the protection of consumers of financial services.

Non-governmental organisations (NGOs) such as the Institute for Consumer Protection (ICP) and the Association des Consommateurs de l'Ile Maurice (ACIM) are also very active with regard to consumer protection issues. These two organisations are regarded as pressure groups that voice their concerns and act as watchdogs.

In the last decade, Mauritius reached a number of consumer protection milestones. In 2004, the Bank of Mauritius was endowed with enhanced powers to protect customers of financial institutions. The modernised law effectively allows the Bank to "develop and promote such programmes and initiatives, where it thinks necessary in collaboration with financial institutions or bodies representing the financial institutions, to inform and educate customers or potential customers of financial products and financial services."

Another major milestone was the establishment of the Mauritius Credit Information Bureau (MCIB) in 2005. This platform is hosted by the Bank of Mauritius. To provide prospective lenders a complete picture of borrowers' financial commitments, it collects information from lenders on credit facilities granted to individuals and firms. The main objective of the MCIB is to create a generally sound credit environment by discouraging over-indebtedness.

In August 2013, the Bank of Mauritius issued the Guideline on Complaints Handling Procedures. The guideline details a broad range of measures to be implemented by financial institutions when dealing with complaints and grievances from their customers, and when reporting information thereon to the Bank of Mauritius. All banks now have a complaint desk and only issues that cannot be resolved through direct interaction between clients and banks are referred to the Bank of Mauritius.

Other provisions geared towards consumer protection include mandatory disclosure of fees, charges and commissions on banks' websites and at their places of business, quarterly meetings between the Bank of Mauritius and complaint officers of commercial banks, and the imposition of caps on costs for certain services. Further, to make it possible to provide customers with cost comparisons, the bank has developed a chart of banks' fees, charges and commissions for the most commonly offered services.

Effective consumer protection also demands a proper legal framework. Currently, relevant legislation consists of the *Borrower Protection Act* proclaimed in 2007. This law has enhanced collaboration between regulators and law enforcement agencies to safeguard the interest of customers borrowing funds from financial institutions up to a specific threshold. The *Borrower Protection Act* clearly sets out the obligations of lenders to provide clear information on the terms and conditions governing the grant of any credit facility.

FinCoNet is a key forum for keeping abreast of trends in consumer protection and how these impact the market and steer consumer-centric strategies. Being part of such this global network is significant to the Bank of Mauritius, especially in relation to its goal to create a modern and resilient Mauritian banking industry that is respectful of consumer demands and rights.

The Bank of Mauritius Museum: a stepping stone to consumer education

On 3 November 2017, the Bank of Mauritius Museum was inaugurated by the Honourable Pravind Kumar Jugnauth, Prime Minister and Minister of Finance of the Republic of Mauritius. The opening of the museum was a fitting event to commemorate the 50th anniversary of the Bank of Mauritius. More importantly, it underlined the role of the country's central bank as a people-centric organisation that has, among its roles and functions, the duty to educate consumers of financial products.

The museum was proposed in December 2016. The proposal stemmed from the bank's objective to provide an infrastructure to help citizens and foreigners grasp the country's development through the evolution of currency, the oft-forgotten contributor to socio-economic development. For ten months, a team of five people worked relentlessly to establish the museum. Literally built from scratch, the museum gradually evolved into a world-class institution that artfully blends history and technology. While the museum boasts state-of-the-art interactive systems and touch-enabled screens for an immersive user experience, it is noteworthy that it was this small team that created all the content and technology in-house.

The Bank of Mauritius Museum proudly stands today as one of the most advanced financial museums in the region. In light of its ambitions as a knowledge and financial literacy platform, the Bank of Mauritius Museum has received the official endorsement of the New

York-based International Federation of Financial Museums. The process is underway to make it a member of the International Council of Museums.

The bank decided to make its customer education initiatives coincide with celebrations to mark the anniversary of the country's independence. On 3 and 4 March 2018, it held an open-door event for the public. For two days, the bank staff welcomed more than 3,000 visitors, providing guided tours of the Bank of Mauritius premises and a free visit of the Bank of Mauritius Museum. Information kiosks were set up to help visitors understand the bank's role and functions, and the specific duties of its various departments. An exhibition of the bank's innovation and technology was also open to the public.

At a time when Mauritius is also celebrating the 50th anniversary of its independence, the bank has deemed it essential to emphasize the role of information as a prerequisite for economic growth. The aim of the museum is to highlight the fact that Mauritius has been a bustling trading and financial hub since the 17th century. This helps citizens, especially younger ones, learn from the past and actively shape the future. The Bank of Mauritius Museum is the first phase of the country's financial literacy programme.

In line with its ambitions to promote consumer education, for a week in March, the bank held a series of lectures for the general public, with special focus on university students. These lectures on banking, finance and economics were facilitated by experts from the bank as well as leading professionals from key business sectors. To build on the success of these public initiatives, the bank is contemplating making these lectures a recurring feature in its consumer education programme.

The next phase of the bank's consumer-centric strategy will be rolled out through a national campaign targeting different segments of the population, most importantly students and those nearing retirement age. For the Bank of Mauritius, the ultimate goal is to ensure that citizens do not fall prey to scams and that they develop adequate financial capabilities and optimal knowledge of their rights and obligations as users of financial products.

For more information, please visit the website of the Bank of Mauritius at https://www.bom.mu.

Current Issues Forum

Portugal steps up the standards in credit worthiness assessment

Contributor: Pedro Dias, Banco de Portugal

Banco de Portugal, the central bank of Portugal, has recently taken its latest step towards the goal of reinforcing responsible lending standards at all stages of credit relationships by defining a set of rules and principles to be followed by credit institutions when assessing bank customers' credit worthiness.

The obligation to assess a customer's capacity to reimburse a credit agreement is not an innovation in the Portuguese legal framework. In fact, credit institutions were already required to carry out such assessments before entering into, or increasing the loan amount of, consumer credit agreements. In 2017, however, Banco de Portugal reinforced this obligation by specifying procedures and criteria that credit institutions must take into consideration when assessing customer credit worthiness.

The rules set out by Banco de Portugal, which take into consideration the European Banking Authority Guidelines on credit worthiness assessment (EBA/GL/2015/11), apply to all types of credit agreements concluded with consumers, including unsecured consumer credit agreements and mortgage loans.

Given this wide scope, the requirements imposed on credit institutions have to be duly balanced and adapted to the specific features of the different types of credit agreements. With this in mind, the procedures and criteria set out by Banco de Portugal vary depending on the loan amount of the credit agreement proposed to the customer.

Hence, for credit agreements for an amount in excess of ten times the legal minimum wage (in 2018, this amount will be €5,800), credit institutions will be required to carry out an individual assessment of the customer's capacity to reimburse the credit, taking into consideration the customer's level of regular income and expenses.

For that purpose, credit institutions will be required to obtain sufficient information on the income earned by the customer during a period of at least three months, as well as on the customer's regular expenses, which include not only costs related to their debt service obligations, but also other regular household expenses. Additionally, the assessment to be carried out by credit institutions may take account of other relevant factors, such as the customer's age, professional situation and credit score, based on information in credit register databases.

To be considered in the credit-worthiness assessment, information obtained must be well documented. Credit institutions are required to archive those documents during the lifetime of the credit agreements and for five years following their termination, which may be relevant for oversight purposes.

The rules set out by Banco de Portugal also require credit institutions to take into consideration likely future events that may have a negative impact on the customer's capacity to reimburse the proposed credit. For instance, a reduction of the customer's income following retirement age or an increase in the customer's expenses as a result of default in a credit agreement in which he/she acts as guarantor should be duly considered when assessing his/her credit worthiness.

If the credit agreement that is proposed to the customer is a variable-rate loan (or encompasses a variable-rate period), credit institutions will also be required to consider the impact of an increase in the interest rate on the customer's credit worthiness. According to the criteria set forth by Banco de Portugal, the assessment should consider an increase in the interest rate between 1% and 3%, depending on the maturity of the credit agreement. These criteria were defined based on the evolution of the interest rates in past years, may be reviewed in the future to ensure that credit institutions make an effective impact assessment.

On the other hand, if the credit agreement offered to the consumer is below the amount corresponding to ten times the legal minimum wage, the Notice allows credit institutions to estimate the customer's income and expenses on the basis of credit-scoring models. This solution allows for faster credit-granting processes, which are essential in a growing digital consumer credit market, where convenience and speed are critical factors.

Based on these new rules, Banco de Portugal will oversee, from a banking conduct supervision perspective, the credit-scoring models implemented by credit institutions and to verify whether they are leading to inadequate or irresponsible lending decisions.

Notice of Banco de Portugal No 4/2017, which is available for consultation in the Bank Customer Website (English version)[1]. Elements of the Notice concerning mortgage credit entered into force on 1 January 2018. Elements concerning consumer credit agreements will enter into force on 1 July 2017. Instruction of Banco de Portugal No 3/2018, which contains the criteria to be taken into consideration in the assessment of the impact of an increase in the interest rate applicable to variable-rate credit agreements, is also available for consultation in the bank's customer website (English version)[2].

1 https://clientebancario.bportugal.pt/sites/default/files/relacionados/generica/NoticeBancoPortugal4_2017.pdf

2 https://clientebancario.bportugal.pt/sites/default/files/relacionados/generica/Instruction3_2018.pdf

The revised payment services directive (PSD2), the backbone of EU legislation on payments

Contributor: Ralf Jacob, Head of Unit, DG FISMA, European Commission

The revised payment services directive (PSD2) is of application in all EU Member States of the European Union since 13 January 2018. European consumers will benefit from a wider choice of better payment services, thanks to increased competition and innovation. In addition, PSD2 introduces high security standards for online payments. This will mean consumers can be more confident when making purchases online and using innovative payment services. Many of these benefits will only materialize gradually after all Member States have implemented the directive into national law and after all related implementing measures are applied. In this respect, important regulatory technical standards (RTS) on strong customer authentication and secure communication between payment services providers (mainly banks on one side and new third-party payment services providers on the other) were published on 13 March 2018. They will apply as of September 2019, in order to leave sufficient time for market players to adapt their systems to the new rules, but it is widely regarded as a key piece of legislation for the establishment of an open banking ecosystem in the EU.

Innovation in payment services

PSD2 was adopted at the end of 2015 in response to the fast-paced fintech-fuelled evolution of the retail payments market. The revised payment services directive increases security for consumers when they are making payments. At the same time, it allows them to use innovative services based on secure access to bank account-related information and payment operations. This greatly enhances the options available with a simple payment account.

PSD2 creates a framework that fosters fintech innovation in payments. It allows new service providers (called 'third-party providers') to be licensed across the EU. While these are typically fintech companies, long-established banks are also getting ready to offer new services linked to bank accounts, often in partnership with fintechs.

The new services that PSD2 regulates are payment initiation services (PIS) and account information services (AIS). PIS represent a cost-effective online payment alternative for merchants, although PIS could also move into 'bricks-and-mortar' shops. A consumer can choose to pay through a PIS rather than a credit card or e-money wallet. In such a case, the PIS initiates a credit transfer from the consumer's account to the merchant's. The PIS will confirm to the merchant that the money is on its way, allowing the goods or services to be released immediately.

Account information services enable consumers to group different payment accounts they may have with one or more banks or to categorise their spending under different headings (e.g. food, rent, leisure, etc.).

PSD2 establishes the right for providers of PIS and AIS to access an account to provide their services and defines the rules under which this access can take place, obviously only with the customer's consent. The RTS sets out more detailed technical requirements for secure communication between the providers of these new services and banks.

All banks that offer online account access to their customers are obliged to put in place a communication channel ('access interface') that allows third-party providers to access the data they need to provide their services. Such access will only be provided at the request and with the agreement of their customers. These communication channels, or interfaces, will allow banks to clearly identify which third-party provider can access an account. They will also guarantee secure messaging at all times. Banks are free to choose how they allow third-party providers to access accounts on behalf of their customers. They can either establish a dedicated communication interface ('application programming interface' or API) only for third-party providers, or they can allow third-party providers to use the online banking interface that is also used by bank customers.

Many banks plan to, or have already, set up a dedicated interface for third-party providers. This is expected to lead to an open banking environment, particularly if banks adopt standardised APIs, which are currently being developed. At the same time, the infrastructure for instant payments and mobile payments is being put in place. As a result, consumers can look forward to much more convenient and cost-effective payment solutions. What remains to be seen is which market players make the must use of these new opportunities – banks, fintechs, internet giants, mobile phone producers or network operators?

Enhancing the security of payments

For customers to accept these modernised payment services, the services must ensure high levels of security of payments. The RTS therefore also outlines detailed security requirements for electronic payments (whether at a cash register or online). These stricter requirements should help reduce the risk of fraud for all electronic payments, especially online. They should also contribute to protecting the confidentiality of users' financial data, including personal information.

'Strong customer authentication' will be the new security standard. This entails the use of two or more elements from three categories to validate a given payment transaction. These categories are: (i) knowledge (something you know, such as a pin code or password); (ii) possession (something you own, such as a token or a mobile device); and (iii) inherence (something unique to you, such as your fingerprint, your iris or your voice). For online payments, the authentication of the transaction goes even further. A different code will be required for each payment. The code is linked to a given payment with a specific amount and specific payee. This 'dynamic linking' provides a very high level of protection against mistakes or fraud.

However, strong customer authentication (SCA) is not justified or appropriate in all situations. The RTS therefore also defines the precise conditions under which payment service providers can opt not to require SCA. For instance, there might be exemptions from SCA when fraud risks have been kept low thanks to transaction risk analyses (monitoring mechanisms that enable payment service providers to detect unauthorised or fraudulent payment transactions and that analyse numerous factors related to the user, payment history, location, etc.). There are also exemptions for contactless payments of small amounts or for recurring payments to the same (trusted) payee.

Enhancing consumer rights

Because PSD2 effectively strengthens consumer rights, it will also increase consumer acceptance of electronic payments. It bans additional charges for payments with most consumer debit and credit cards, both in shops and online. 'Surcharging' is common in some Member States, particularly for online payments and in specific sectors such as the travel and hospitality industries. The ban on 'surcharging' will apply to domestic as well as cross-border payments. In practice, it will cover about 95% of all card payments in the EU – those payments for which the EU's Interchange Fee Regulation has capped the costs to merchants.

PSD2 also reduces liability for unauthorised payments. The maximum loss consumers incur in the case of an unauthorised money transaction will decrease from €150 to €50 (except in cases of fraud or gross negligence by the payer). The legislation also introduces an unconditional, 'no questions asked', refund right for direct debits in euros (during an 8-week period from the date the funds are debited). And consumers will benefit from greater protection in the context of pre-authorised card payments, where the final amount is not known in advance (e.g. car rentals or hotel bookings). In these cases, the payee will only be able to block funds on the payer's card account if the cardholder has approved the exact amount that can be blocked. Not all EU countries transposed the directive into their national legislation by the deadline of 13 January 2018. Moreover, payment service providers still have 18 months to adapt to some important technical standards that will further reduce the risk of payment fraud and ensure secure communication between banks and the providers of innovative payment services. Thus, it will take some time before European consumers can fully enjoy all the benefits of this new legislative framework for payments.

Financial advertising of institutions supervised by Banco de España

Contributor: Monica Griga, Banco de España

Financial advertising plays an important role in the commercialization of banking products and services, as it is often the first contact between a financial institution and its potential customers. Consequently, it determines the expectations of customers and their decision-making process. In the design of a financial advertisement campaign, two opposing forces operate: the marketing effort to present attractive products highlighting their advantages, and the compliance requirements to ensure that clients are appropriately informed of their risks.

Current regulation in Spain establishes an ex-post supervision scheme that is based on two elements. One element is prevention, which involves supervised entities ensuring clear and honest advertising through their own procedures and internal controls and their adherence to self-regulatory bodies. The other element is correction, which involves supervisors having the power to request supervised entities to cease or correct possibly inappropriate advertisements.

As part of its day-today supervisory activity, the Banco de España reviews financial advertisements and, where appropriate, issues requirements to cease or modify such advertisements. During previous years, it was observed that the higher the number of advertisements reviewed, the higher the number of requirements.

For this reason, Banco de España’s Market Conduct and Claims department has granted special relevance to the supervision of advertising carried out by supervised institutions. In 2017, a thematic off-site surveillance activity was developed to cover all financial institutions subject to banking advertising regulation. The main obligations this regulation established relate to i) keeping internal registers of all advertising campaigns; ii) maintaining adequate internal policy, procedures and controls; and iii) ensuring the compliance of advertising campaigns.

In a first phase of this review of 312 financial firms, Market Conduct and Claims verified the degree of compliance of supervised financial institutions with the obligation to keep a record of all the advertising activity. This enabled them to acquire an accurate view of total activity within the sector. In the second phase, the review involved a deeper analysis – incorporating the three obligations mentioned above – of the 170 firms most actively engaged in advertising.

This analysis covered the firms' policies, procedures and registers and the advertisements they produced during the past six months (around 18.500). One finding is that a significant number of supervised institutions had one or more shortcomings in meeting their obligations. The internal register of all advertising campaigns was incomplete or contained incorrect information; advertisements were identified that did not comply with the regulation, necessitating the creation of new requirements (when the advertisements were still live) and frequent improvements to the policies, procedures and controls. Based on these findings, letters of concern have been sent to supervised firms outlining a variety of requirements, recommendations and observations. Moreover, Banco de España urged the major financial firms to perform audit reviews in relation to the advertisement function. In the third and final phase, the Market Conduct and Claims department is verifying the degree of compliance with the supervisory/enforcement measures mentioned above. In conclusion, the global assessment of this supervisory activity has identified the need to improve the quality and effectiveness of the procedures and controls established by supervised financial institutions in regard to financial advertising. In addition, the financial sector should better define marketing and compliance functions within its entities, emphasizing the importance of compliance with advertising regulation. In some cases, insufficient involvement of firm's senior management in the processes of approval and of updating procedures and controls related to banking advertising has been identified. Finally, the department's review identified the need to integrate advertising within the Product Oversight Governance framework.

In addition, supervisors need to continually enhance and broaden their knowledge of advertising activity within the financial sector, Regulation should also be adapted to potentially generate greater regulatory reporting and supervisory control.

First Federal Financial Inclusion Strategy for Russia drawn up

Contributor: Daria Silkina, Bank of Russia

On 26 March 2018, the Bank of Russia developed the National Financial Inclusion Strategy for 2018–2020 which was approved by the Bank of Russia Board of Directors. The document takes into account the comments and suggestions expressed at meetings and discussions with representatives of Russian financial market participants, their unions and public associations, as well as international practice and expert advice.

The Strategy's objectives and priorities are based on the assessment of the current state of financial inclusion in Russia. Country-specific factors account for a number of unaddressed issues in this field, including geography and demographics, the economic environment, and a relatively immature financial market.

One of the Strategy's key objectives is to enhance financial inclusion and the quality of financial services for consumers in remote, underpopulated and rural regions, for demographic groups with limited access to financial services (physically challenged, elderly, and low-income individuals) and for small and medium-sized businesses. The Strategy's second and more universal objective is to increase the speed and quality of access to financial services for Internet users.

To deliver on these objectives, the Strategy focuses on digital products and services, digital channels and ICT infrastructure, financial institutions' cooperation with communication service providers and financial agents, as well as the feasibility of providing financial services via satellite TV channels and other alternative technologies. In addition, the document points out the need to protect consumers from potential risks posed by the use of new financial technology, stating that financial inclusion is constrained by certain population groups' mental barrier due to their insufficient financial experience.

The Strategy authors believe that other financial inclusion drivers in Russia include eliminating regulatory obstacles, analysing proposed laws with a potentially significant impact on access to certain financial services, and improving the regulatory framework. Once implemented, the Strategy is expected to bring about better access and quality of financial services both for Russian citizens overall and consumer groups the Strategy prioritises.

The efforts to advance ICT / payment infrastructures and digital financial technologies will help enhance the quality and speed of consumer access to financial services, while the Strategy measures to improve the financial consumer protection system and increase financial literacy will lead to strengthened consumer confidence.

Once implemented, the Strategy will help promote competition in the financial market, contributing to the expansion of the range of financial services and growth in mental availability of digital channels via which they are provided.

The Strategy is aligned with Guidelines for the Development of the Russian Financial Market in 2016-2018; it also takes into account the Bank of Russia other policy documents including the National Consumer Rights Protection Strategy up to 2030, the Strategy for the Improvement of Financial Literacy of the Population in Russia for 2017-2023, and Guidelines for Financial Technologies Development for 2018-2020.

FCAC launches report, Domestic Bank Retail Sales Practices Review

Contributor: Teresa Frick, Director, Supervision, FCAC

In March, the Financial Consumer Agency of Canada (FCAC or the Agency) released a report titled Domestic Bank Retail Sales Practices. The report is based on the findings of our most ambitious industry review to date.

One year previously, a special team of Agency staff set out to examine the following considerations related to the sales practices of Canada's six largest banks:

- drivers of market conduct risk – that is, factors that raise the risk that banks will breach their legislative obligations;
- the risk of banks selling products and services that are not suited to consumers' needs and of selling on the basis of unclear or misleading information; and
- the effectiveness of the controls banks have in place to mitigate these risks.

We concentrated on channels where there is the most live interaction between bank employees and consumers, including branches, call centres and transactions with specialists such as mobile mortgage specialists.

The purpose of the review was not to prove or disprove any allegations of sales misconduct. Our purpose, rather, was to assess banks' sales practices, including sales targets and incentive programs and whether the controls put in place by the banks effectively mitigate risks of sales misconduct.

FCAC looked at more than 4,500 complaints related to sales practices to gain a better understanding of the issues consumers experience when acquiring bank products and services. Another important component of our review was an examination over 100,000 pages of bank documents, including materials related to training, performance and sales management, compliance, risk management and internal audit. We also interviewed more than 600 bank employees, including 200 from 30 branches. Our sample included board chairs and directors, senior management, middle management and frontline customer services representatives in call centres.

Our review did not uncover widespread mis-selling. We did, however, identify many areas where risks of mis-selling are high, and where controls need to be improved. Banks are in the process of enhancing their controls, but this work is at an early stage and we will be monitoring their progress.

In all, it took nine months to complete the review, after which we prepared and issued our report – alerting Canadians to the following five key findings:

1. Retail banking culture is predominantly focused on selling products and services, increasing the risk that consumers' interests are not always given the appropriate priority.

Our findings indicate that frontline employees regard sales results as an effective way to earn recognition, make a name for themselves and advance in their careers.

Retail banking is a business – but it is a business distinctly dependent on the public's trust. It is notable that high-profile cases of misconduct in foreign jurisdictions can create an atmosphere of suspicion around retail financial services in general.

2. Banks' financial and non-financial incentives, sales targets and scorecards

may increase the risk of mis-selling and breaches of market conduct obligations.

Incentives have a powerful effect on the culture of banks. They represent the behavior banks value most, and the way banks incentivize their staff can influence how and what employees sell to consumers. For instance, ambitious and product-specific targets may motivate employees to sell products to consumers who do not want or need them.

Assigning greater value to more profitable and complex financial products and services may also increase the risk of mis-selling

3. Certain products, business practices and distribution channels present a higher sales practices risk.

In light of this, our research probed into the increased risks associated with mobile mortgage specialists, cross-selling of products and services, creditor insurance and third party sellers. What we found is that that these products and channels present higher risks to consumers, controls are less developed, and levels of bank supervision are less intense.

Employee training can play a crucial role in addressing situations such as these – that is, if it is enhanced appropriately – for instance, ensuring that bank employees are adequately informed and knowledgeable about products they sell (e.g. creditor insurance products). Training must also be improved to emphasize the importance of integrity and appropriate behavior.

4. Governance frameworks do not manage sales practices risk effectively.

Traditionally, boards and senior management have not devoted significant time to sales practices risk. Our researchers were told that this is mainly because the risks associated with sales practices have not been defined as material risks.

Too often, when investigating issues related to market conduct or employee behaviour, banks tend to assume controls are working as intended.

If handled effectively, employee concerns and grievances can be important indicators of sales practices risks. FCAC outlines in the report a number of opportunities for banks to improve how they handle their employees' concerns and grievances.

5. Controls to mitigate the risks associated with sales practices are underdeveloped.

In general, banks rely on organizational culture, human resources and the three-lines-of-defence model (i.e. operational management, compliance and risk management, and internal audit) to mitigate sales practices risk. The review found that controls for these risks have not kept pace with the shift toward a significantly greater focus on sales and advice in branch and call centre operations.

In addition to the corrective measures FCAC expects from banks, the report outlines measures to strengthen its own programs. For example, we will implement in the coming months a modernized supervision framework that allows us to proactively ensure banks are using appropriate frameworks, policies and procedures to mitigate market conduct risk and breaches of consumer protection laws and regulations.

As a result of our review, the Agency now has a deeper understanding of the context within which the financial institutions we regulate are operating. At the end of May, FCAC Commissioner (and FinCoNet Chair) Lucie Tedesco will provide expert testimony at a hearing of a parliamentary finance committee. This is just one of the ways we will use our industry review findings to inform policy and legislation in Canada.

Basic Payment account - Consumer Rights: Experiences and Challenges

Contributor: Matthias Aust, BaFin, Germany

Since 19 June 2016, every consumer in Germany has the right to a payment account with basic functions (so-called "basic payment account"), irrespective of their credit status. This is set out in the German Payment Accounts Act (ZKG – Zahlungskontengesetz), which transposes the European Payment Accounts Directive into German law. Under the Payment Accounts Act, every consumer who legally resides in the European Union (EU) has a right to the basic payment account. This also includes persons with no fixed address, asylum seekers and persons whose deportation is subject to temporary suspension, i.e. who do not have a residence permit, but cannot be deported for legal or factual reasons. The aim of the basic payment account is to give all consumers the opportunity to participate fully in economic and social life.

Obligation on banks

The act obliges all institutions offering payment accounts for consumers to enter into basic payment account contracts (obligation to contract). Banks must offer a basic payment account to all eligible parties who apply for one within ten business days. Institutions must provide the consumer with an application form free of charge. This form, which is prescribed by law, can also be accessed on the institutions' and on BaFin's websites.

Only under certain conditions may banks terminate a consumer's basic payment account or refuse to open one to begin with. For example, they can refuse to open an account if the consumer already has a usable basic payment account with another credit institution in Germany. The bank can also refuse an application for such an account if the consumer has been convicted of a criminal offence against the bank, one of its employees or one of its customers in the three years prior to making the application. Grounds for rejection also include instances where the institution terminated a consumer's basic payment account because the consumer intentionally used it for illegal purposes. The same applies if provisions aimed at preventing money laundering and terrorist financing demand that an institution refuse to open the account.

In addition to the rules for the basic payment account, the Payment Accounts Act contains provisions intended to ensure greater transparency of the fees charged by banks as well as for greater competition, especially by making it easier to switch accounts. Since 18 September 2016, payment service providers have to support consumers who wish to switch accounts.

Enforcement of the basic account claim

All banks that offer payment accounts for consumers must also offer basic payment accounts in accordance with the ZKG. In general, banks are fulfilling this obligation. In cases where a bank has wrongly refused a basic payments account, BaFin's administrative procedure has proven to be an easy and quick way for consumers to assert their claim. At the request of the consumer, BaFin checks whether the bank was allowed to reject the basic payment account and arranges the opening of the account if there is no legal reason for refusal.

As of December 2017, consumers have made use of this about 490 times. Well over 160 of them have effectively and unbureaucratically received help by BaFin in obtaining a basic payment account. BaFin has formally ordered the opening of a basic payment account 22 times; in the remaining cases, the banks have responded to the BaFin hearing and corrected their decision. In the first time after the introduction of the basic payment account, banks and consumers were still uncertain about the new rights and obligations. In the meantime, it is almost always possible for consumers to open a basic payment account without any particular difficulties. This is also evident from the fact that the number of requests submitted to BaFin for rejected basic payment accounts has meanwhile declined and the proportion of procedures in which the rejection by the bank turns out to be unjustified has decreased. While in 2016 about 44 percent of the examinations showed that the bank had wrongly rejected the opening of a basic bank account, in 2017 the number dropped to only 33 percent of the cases decided so far.

For further general information on the basic bank account, please visit: https://www.bafin.de/dok/9758888

The Central Bank of Ireland publishes a Consultation Paper on its Consumer Protection Code for Licensed Moneylenders

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In March 2018, the Central Bank of Ireland published a Consultation Paper on the Review of the Consumer Protection Code for Licensed Moneylenders. The objective of the Consultation Paper is to obtain feedback from consumers and other interested parties on a number of proposed enhancements to the existing requirements and additional consumer protection measures.

Moneylending in Ireland is the practice of providing credit to consumers on foot of a moneylending agreement where the total cost of credit is in excess of an annual percentage rate (APR) of 23% or the agreement is concluded away from the business premises of the moneylender. There are currently 38 moneylenders licenced by the Central Bank of Ireland, with approximately 350,000 consumers. Moneylending firms range from those with in excess of 100,000 consumers to small firms with 100 to 1,000 consumers.

The Consumer Protection Code for Licensed Moneylending (the ML Code) already provides a strong framework of protection for consumers who choose to avail of the services of licensed moneylenders.

The key aims of the Review of the ML Code are to:

- Further ensure that moneylenders adopt and implement a culture of responsible lending and act in the best interests of their consumers.
  - Help consumers availing of credit from a moneylender to do so on a more informed and considered basis.
  - Reduce the possibility of consumers over-extending themselves in respect of the proportion of their income required to service repayments on borrowing from licensed moneylenders.
  - Enhance the professionalism of the sector.
  - Bring requirements into line with other sectors regulated by the Central Bank.

In particular, the Central Bank of Ireland is seeking views on:

- Putting in place a specific limit on how much of a consumer's income can be devoted to paying off high cost moneylending agreements.

- Requiring moneylenders to prompt consumers to consider alternatives, including cheaper options, before taking out a moneylending loan.
- Providing heightened protection for consumers using moneylending loans to pay for immediate basic needs such as accommodation, food, electricity, heating and other similar costs.
- Restricting the promotion of moneylending by targeted advertising or unsolicited contact.
- Enhancing the professionalism of the sector through training requirements.

The Consultation Paper is open for a three-month period until 27 June 2018. Further information on the moneylending sector in Ireland can be found on the Central Bank's website.

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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