



# **UPDATE REPORT ON THE WORK TO SUPPORT THE IMPLEMENTATION OF THE G20 HIGH- LEVEL PRINCIPLES ON FINANCIAL CONSUMER PROTECTION**

## **G20/OECD TASK FORCE ON FINANCIAL CONSUMER PROTECTION**

**Principles 4, 6 and 9**

**SEPTEMBER 2013**

As agreed in the Action Plan of the G20/OECD Task Force on Financial Consumer Protection, endorsed by the G20 in 2012, the Task Force has developed the first set of Effective Approaches dealing with three of the ten High-Level Principles on Financial Consumer Protection, endorsed by the G20 Leaders in 2011.

This document contains the ninth final version of the Summary Report on Effective Approaches to support the implementation of the G20 High-Level Principles on Financial Consumer Protection. It is based on several meetings of the G20/OECD Task Force on Financial Consumer Protection, subsequent written consultation with member jurisdictions, other relevant bodies and Standard Setter Bodies (SSB), Vice Chairs, sub-groups and an informal/public consultation with key stakeholders, including consumer and industry associations. This version was also shared under the written process with the OECD Committees on Financial Markets and on Insurance and Private Pensions. In July 2013, it was submitted to the G20 Finance Ministers and Central Bank Governors, who supported the work done by the G20/OECD Task Force on this first set of effective approaches and look forward to their report on other principles in 2014. The Update Report and a new detailed annex providing information on national approaches are now submitted for consideration by the G20 Leaders.

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## **Ninth Draft Summary Report on Effective Approaches to Support the Implementation of the G20 High-Level Principles on Financial Consumer Protection**

### **Introduction**

#### ***Background***

At the G20 Cannes Summit in November 2011 the G20 Leaders stated: *“We agree that integration of financial consumer protection policies into regulatory and supervisory frameworks contributes to strengthening financial stability, endorse the FSB report on consumer finance protection and the high-level principles on financial consumer protection prepared by the OECD together with the FSB. We will pursue the full application of these principles in our jurisdictions and ask the FSB and OECD along with other relevant bodies, to report on progress on their implementation to the upcoming Summits and develop further guidelines if appropriate.”*

At the Los Cabos Summit in Mexico, June 2012, the G20 Leaders endorsed the Action Plan of the G20/OECD Task Force on Financial Consumer Protection to develop effective approaches to support the implementation of the G20 High-Level Principles and at the Meeting of the G20 Finance Ministers and Central Bank Governors in Moscow, February 2013, they restated that *“We look forward to an update report on the work undertaken by the G20/OECD Task Force to support the implementation of the G20 High Level principles on Financial Consumer Protection by the St. Petersburg Summit.”* At their July 2013 meeting the G20 Finance Ministers and Central Bank Governors stated that they *“support the work done by the G20/OECD Task Force on Financial Consumer Protection on the first set of effective approaches to support the implementation of the G20 High-Level Principles on Financial Consumer Protection and look forward to their report on other principles in 2014”*.

The Ninth Draft of the Summary Report on Effective Approaches to support the implementation of the G20 High-Level Principles on Financial Consumer Protection is organised around three priority principles; Disclosure and Transparency; Responsible Business Conduct of Financial Services Providers and their Authorised Agents and Complaints Handling and Redress. At the Fifth meeting of the G20/OECD Task Force on Financial Consumer Protection, 2 April 2012, the Task Force agreed that the focus of its work would be on effective approaches and not new guidance, with a preference for developing and disseminating relevant practices. The best way to drive this issue forward and to organise the work load in developing effective approaches was decided to be for country representative to volunteer and take the role of Vice Chair’s for each of the priority principles.<sup>1</sup> It was later agreed by the Task Force to form sub groups to work with the Vice Chairs in the development of effective approaches for each principle.

This draft document takes note of the discussions held during the Seventh, Eighth and Ninth meetings of the G20/OECD Task Force on Financial Consumer Protection, on 27 March, 13 May and 10 June 2013, and subsequent written consultation with Vice Chairs, sub-groups and members of the Task Force, Committee on Financial Markets and Insurance and Private Pensions Committee.

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<sup>1</sup> The Task Force representative from Spain acts as the Vice Chair for Principle 4: Disclosure and Transparency. The Task Force Chair from the Netherlands undertakes this role for Principle 6: Responsible Business Conduct of Financial Services Providers and their Authorised Agents (replacing the previous Task Force Chair from Mexico, March 2013) and the Task Force representative from India acts as the Vice Chair for Principle 9 Complaints Handling and Redress.

## *The Process*

The field of financial consumer protection is still relatively new but it is developing quickly and will probably continue to do so for some time. Learning from previous experiences and gaining new insights from behavioural and consumers research on how consumers think and feel about and handle their financial issues, have stimulated both policy makers and practitioners worldwide. As a result many new approaches to market conduct regulation are now being developed and implemented.

To meet this challenge the G20/OECD Task Force on Financial Consumer Protection developed an approach that aims to identify and present a broad range of effective approaches. These effective approaches will be presented Principle by Principle. In this way a toolbox of practice is developed, instead of detailed guidelines.

The effective approaches are illustrative and serve to inspire and stimulate the implementation of the G20 High-Level Principles, as well as to share lessons learnt and foster new insights on what works well under country specific and sector relevant circumstances.

The analysis draws on information gathered through a survey of Task Force Members (including over twenty responses from G20, FSB and OECD economies) which provided concrete examples of regulatory and supervisory approaches to support the first three priority principles. This information was complemented by factual information gained through an informal consultation with key stakeholders, including consumer and industry associations and additional inputs from various member jurisdictions and other relevant international organisations and Standard Setting Bodies (SSB).

During the process the Vice Chairs, sub-groups and members gave consideration to existing and planned European Union legislative measures in the financial services sector and guidance issued by relevant SSB, although this is not comprehensive at this stage.

## *Effective Approaches*

The effective approaches identified are not exhaustive but they do reflect considerations highlighted within the members survey and the following consultations. They represent examples, based on individual jurisdictional initiatives, deliberated and identified, according to the expert opinion of the Vice Chairs, sub-groups and members of the G20/OECD Task Force on Financial Consumer Protection.

They are illustrative and non-binding and are designed to assist regulators, supervisors, policy makers, financial services providers, authorised agents and all other relevant stakeholders to enhance financial consumer protection, while taking into account specific jurisdictional circumstances. These effective approaches are of interest across all financial services sectors – including, banking and credit, investment, securities and insurance and pensions.

In the context of this report<sup>2</sup>, the term financial services provider includes all independent entities that provide, or offer, financial products and services in the market place. The role of the consumer is that of a retail consumer rather than high-net worth individuals or institutions (which have the means, background and access to professional advice that many retail consumers lack) and the term authorised agents is

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<sup>2</sup> The text of the report is organised by paragraph number to enable readers to link the effective approaches with the detail information on country specific regulatory and supervisor approaches as outlined in an Annex which will be made available for the G20 Leaders Summit. This ordering is not intended to indicate, in any way, a hierarchy of significance within the effective approaches.

understood to mean third parties acting for the financial services provider or in an independent capacity. They include any agents (tied and independent) brokers, advisors and intermediaries.

These effective approaches should not be considered in isolation. The development of the G20 High-Level Principles recognised that the Principles are supporting and inter-connected, thereby reflecting a holistic but proportionate approach to financial consumer protection. While efforts have been made to avoid unnecessary duplication, in some instances, given the interrelation between the principles, it is necessary to make more than one supporting reference to an effective approach to help support the implementation of the principle. For example, there is a strong interrelation between Principle 4 Transparency and Disclosure and Principle 6 Responsible Business Conduct of Financial Services Providers and their Authorised Agents. The Task Force is of the opinion that transparency alone is not always sufficient and that effective financial consumer protection through disclosure is best implemented with measures that ensure responsible business conduct and improve financial education.

The term **underlying assumptions** refers to those assumptions or statements that have been identified by the Task Force as providing further clarity, or explanation to the High-Level Principle. These assumptions refer to traditional justifications for financial consumer protection interventions but the Task Force also recognises the importance of emerging points of view stemming from, for example, the perspective of behavioural economics as a way to better understand the rationale behind the development of the effective approaches.

The term **common effective approaches** refers to regulatory, supervisory and self regulatory measures and practices which have been developed and are considered by the Task Force to effectively implement the key aspects of the G20 High-Level Principles and are consistent with approaches developed by a broader range of jurisdictions. These common effective approaches are drawn from the member's survey and are not classified due to a specific number of jurisdictions undertaking such an approach.

**Innovative and/or emerging effective approaches** are regulatory, supervisory and self regulatory measures and practices that have been identified in the member's survey and are considered by the Task Force as approaches worth further consideration. These effective approaches represent either innovative, (undertaking a different, alternative or new approach to implement the key aspects of the G20 High-Level Principle) or emerging (the adoption or the specific use of a certain approach as a consequence of a new or emerging challenge to support key aspects of the G20 High-Level Principle). Innovative and/or emerging approaches are not representative across a broader range of jurisdictions but instead are limited to a number of jurisdictions and sometimes they are only applied to certain financial services. The Task Force considers that after taking into account specific national circumstances, these approaches can be of interest to and prove useful for stakeholders engaged in work to enhance financial consumer protection.

### ***Future work***

As outlined in the Action Plan endorsed by the G20 Leaders at the Los Cabos Summit in 2012, work to develop effective approaches to support the implementation of the remaining G20 High-Level Principles on Financial Consumer Protection will follow a similar process (member led exercise) to the process developed for the first three priority principles and the Task Force will deliver the final report on these effective approaches by June 2014. As the effective approaches will continue to evolve as a result of new insights and experience, the Task Force will, when appropriate report on practices, so as to keep the effective approaches relevant, effectual and up to date for policy makers, regulators, supervisors and all other stakeholders involved in promoting financial consumer protection.

## Principle 4: Disclosure and Transparency

### Underlying assumptions

1. The principle of disclosure and transparency is important as it is clearly in consumers' best interest that they are given complete, clear and not misleading information about financial products and services.
2. Information disclosure, including standardised and prescribed information, supports the decision-making process for consumers and allows them to make informed assessments of the financial products and services on offer. An appropriate level of standardisation also supports informed assessment by improving the comparability of different products and services. As such, disclosure rules are essential for marketing and advertising materials and not just for specific product offerings.
3. Consumers can be at a particular disadvantage when purchasing financial products or services, as these are widely marketed but purchased infrequently. Behavioural finance provides insights that support the view that traditional approaches to disclosure do not always match consumers' information needs with the decisions they may need to make. Moreover, consumers' decision making processes may be influenced or constrained by a number of inherent factors, which may result in poor financial choices. Effective disclosure and transparency should, therefore, aim to mitigate the effect of these factors by providing appropriate and adequate information and opportunities for consumers to process information with ease and clarity, for instance by disclosing information in the format, time, medium and volume that best facilitates informed decision-making by consumers.
4. Since transparency is not always sufficient, effective consumer protection through disclosure is best complemented with measures that ensure responsible business conduct and improve financial education.

### Key Themes

#### 1.1 Key Information about the Product or Service

*Financial services providers and authorised agents should provide consumers with key information that informs the consumer of the fundamental benefits, risks and terms of the product. They should also provide information on conflicts of interest associated with the authorised agent through which the product is sold.<sup>3</sup> In particular, information should be provided on material aspects of the financial product. Appropriate information should be provided at all stages of the relationship with the customer. Standardised pre-contractual disclosure practices (e.g. forms) should be adopted where applicable and possible to allow comparisons between products and services of the same nature.*

### Effective Approaches

#### Common

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<sup>3</sup> Financial services providers and authorised agents should provide clear, concise, accurate, reliable, comparable, easily accessible, and timely written and oral information on the financial products and services being offered, particularly on key features of the products and (where relevant) on possible alternative services or products, including simpler ones, they provide. In principle, information should include prices, costs, penalties, surrender charges, risks and termination modalities.

5. Financial services providers and authorised agents do not make statements that are untrue, misleading or omit information that is necessary to understand the nature, risks, terms and conditions of the products or services.
6. Consumers are provided, by financial services providers, adequate information on the key features of a financial product or service, highlighting the fees, charges, penalties and risks.
7. Additionally, the information can be layered to make it easier for consumers to differentiate between what is essential and what is less important by presenting first select key terms, in a manner that draws them to the attention of the consumers.
8. Consumers receive appropriate and consistent information on the product or service, irrespective of whether they are dealing with a financial services provider or an authorised agent.
9. Information documents are provided free of charge. According to the type of product and other circumstances, their provision is either mandatory or upon request.
10. All information, disclosures and other communications by financial services providers and authorised agents to consumers are clear, accurate and comprehensive at all stages of the relationship with the customer. This means that information is provided before and at the point of sale, at regular intervals until the end of the product term or the termination of the service and at appropriate change or decision points. In the case of mandatory disclosures and communications, regulators make sure they fulfil these characteristics.
11. Consumers are allowed a period of reflection to study, question and understand the information they are provided with, to enable them to make an informed decision about the product or service they are buying and the consequences of their purchase.
12. After buying the product or service, consumers are granted a sufficiently long cooling-off period, allowing them to withdraw from the contract without suffering any inconvenience. The implementation of this cooling-off period is adapted according to the nature of the product, clientele and marketing and distribution practices, such as distant or door to door sales, and as far as it is compatible with the kind of financial transaction.
13. Information for consumers is displayed on the websites of financial services providers and is made available in branches, offices and other client or consumer areas. This is particularly important for lower income users of financial services or other more vulnerable consumers who may lack access to the internet. Regulators and supervisors provide guidance to financial services providers on disclosure requirements for product information, including when it is provided online or through electronic devices.
14. After signing a contract, the consumer receives regular information that allows him/her to monitor the incurred costs, performance and risks related to that product, with the help of key information, and receives reasonably advanced written notice before any changes in the terms of a product or service are enacted, according to the conditions laid down in the law and agreed in the contract.

15. Standardised forms with essential information are used to reflect the nature, key features, risks and costs of the products and services offered, how such products and services may be paid for and the key information of the financial services provider, so that the consumer can easily compare products and providers.
16. Information is consistent throughout all the documents and material given by the financial services provider to the consumer, especially regarding numerical data.

### **Innovative/emerging**

17. Financial services providers and authorised agents adapt information and communication channels used for marketing financial services to reflect the circumstances in which the product is offered and to take into account the nature of the product, the marketing practice and the needs, knowledge and experience of consumers. Any information provided is tailored to the specific groups of consumers who form the target market of the product or service, taking into account the potential consumer's level of financial capability and with a specific consideration for vulnerable consumers.
18. Professional document designers help in the development of disclosure documentation and consumer tests are performed by regulators/supervisors and/or financial services providers at regular intervals to ensure that the documentation is working as intended, particularly for new and less experienced users of financial services, and is available in adequate format to people with impairments. Consumer representatives also provide valuable feedback on the effectiveness of disclosure documentation.
19. Before the imposition of a specific disclosure obligation, appropriate and effective consumer testing is carried out to gauge their benefits and avoid the risk of an overload of information.
20. Regulators, supervisors and financial services providers and authorised agents, with the help of consumer representatives, develop in a co-ordinated regular way up-to-date information leaflets, glossaries and appropriate tools, such as simple examples, tables, graphics or calculators to help inform consumers about key financial concepts.
21. When possible, information is provided in the consumer's native language.

### **1.2 Conflicts of Interest**

*Financial services providers and authorised agents should also provide information on conflicts of interest associated with the authorised agent through which the product is sold.*

### **Effective Approaches**

#### **Common**

22. Financial services providers and authorised agents make certain that if a particular potential conflict of interest is not prohibited and cannot be avoided, then consumers are adequately informed about how the conflict of interest affects the services provided to the consumer and its possible consequences. Hence, prior to providing their services, authorised agents may be subject to the obligation of providing information on their identity and links with financial services providers as well as on any influence these links exert on the provision of advice. Where disclosing a particular

conflict of interest is not sufficient to mitigate its potential impact on consumers, the provider or authorised agent establishes what else it can do in mitigation.

23. Financial services providers and authorised agents make consumers aware of the impact on their marketing or advice of any remuneration, commission, fee, rebate or other benefit or incentive receivable by them or, where applicable, their authorised agent as the primary basis for selling or recommending particular financial products to consumers. In particular, the financial services provider or authorised agent discloses this fact to the consumer, prior to providing the product or service, as well as any likely impact of any such benefit or incentive on the provision of the financial product or service and on the future performance of the product or service.

### **1.3 Provision of Advice**

*The provision of advice should be as objective as possible and should in general be based on the consumer's profile considering the complexity of the product, the risks associated with it as well as the customer's financial objectives, knowledge, capabilities and experience.*

#### **Effective Approaches**

##### **Common**

24. When providing advice, financial services providers and authorised agents must give priority to helping the consumer purchase a product which is fit and sustainable according to his/her financial needs. Furthermore, they inform consumers whether they are considering products from a broad range of providers, only from a more limited numbers of providers or even from a single provider. They also inform consumers about the costs of getting the advice.
25. Recommendations made by financial services providers or authorised agents across sectors are objectively justified, clearly explained to consumers and properly documented. If the requested products are of a higher risk rating than a consumer's risk tolerance assessment results or of a nature that does not match the consumer's needs, financial services providers and authorised agents draw this mismatch to the consumer's attention.
26. The provider of financial advice properly assesses the financial objectives, knowledge and experience of the consumer and the affordability of the product to the consumer against the specific risks and other features of the product by requesting the customer to provide information on his/her financial needs, situation and risk profile. Due care must always be given to confidentiality when requesting and managing information as well as to proportionality when asking for information.
27. The provider of advice gives the consumer a document that summarises advice provided and sets out how the product recommended meets the needs of the consumer and is appropriate for his/her personal circumstances and financial situation. The basic information contained in this document is standardised and helps the consumer make an informed decision about whether to act on the advice given or not.

### **1.4 Promotional Material**

*All financial promotional material should be accurate, honest, understandable and not misleading.*

#### **Effective Approaches**

##### **Common**

28. Advertising is fair, clear, comprehensive, concise, accurate, simple, understandable, balanced, proportionate and visible/audible. It highlights key information, which is prominent and not obscured. The print is of a sufficient size and clearly legible. Special attention should be paid to the legibility of information developed for electronic devices.
29. Financial services providers and authorised agents comply with general and product-specific advertising legislation and guidelines, which provide detailed guidance on what and how information should be presented in advertisements, including the use of language and graphics, performance information, illustrations, forecasts and warning statements.
30. Regulators and supervisors monitor advertisements for financial products and services and enforce relevant rules, including the requirement to withdraw inappropriate advertisement, in order to deter the use of misleading statements to consumers. Information is withdrawn or amended with immediate effect when it is not accurate and clear or misleading. There are clear penalty processes to deter misleading and false advertising.
31. There are regulatory restrictions on unsolicited communications between the financial services provider and the consumer, especially once their relationship has ended.

#### **Innovative/emerging**

32. Promotional material is adapted to the communication channels employed and appropriately targeted according to the specific groups of consumers to whom products are marketed, taking into account the potential consumer's level of financial capability.

#### **1.5 Specific Disclosure Measures**

*Specific disclosure mechanisms, including possible warnings, should be developed to provide information commensurate with complex and risky products and services.*

#### **Effective Approaches**

##### **Common**

33. Enhanced disclosure requirements are established for more complex products that highlight specific costs and risks involved for the consumer. These requirements include the provision of a clear, concise and easily understandable standardised form that contains information enabling the consumer to comprehend the key features and risks of the product and is prepared in a format that facilitates comparison with other products. This document is provided free of charge to consumers prior to or at the point of sale.
34. Risk warning systems, including the use of statements by regulators, keep consumers aware of the issues or problems with specific products. These systems are best developed through consumer testing and prominent in promotional material or advertising used by the financial services provider or authorised agents. Regulators and supervisors may issue public risk warnings on their websites or through other appropriate media.

##### **Innovative/emerging/otherwise interesting**

35. For more complex products, regulators and/or supervisors may establish a pre-approval regime for the key information documents to ensure compliance with the regulations in force and to prevent the disclosure of misleading information.

## **1.6 Consumer Research**

*Where possible consumer research should be conducted to help determine and improve the effectiveness of disclosure requirements.*

### **Effective Approaches**

#### **Innovative/emerging**

36. Consumer research helps financial services providers and authorised agents to better understand the diversity of consumers' information needs and preferences. Consumer research is one of the tools for regulators to gain a better understanding of consumers' attitudes, reluctance, vulnerabilities and decision-making.
37. Consumer surveys, in particular post-sale surveys, are conducted by financial services providers or authorised agents and regulators as one of the ways to collect consumer insights on the effectiveness of disclosure documents and to help identify ways for their improvement. In order to avoid conflicts of interest, the design of the survey and the analysis of the results are done by an independent organisation or a public body
38. As far as possible under national law, mystery shopping, even if it cannot serve as a direct basis for sanctions, helps assess financial services providers' and authorised agents' compliance with regulatory requirements and industry codes of practice from the consumer's perspective as well as the quality of information and advice provided by sales staff.
39. In new delivery channels, such as mobile payment systems or electronic banking, consumers' needs are taken into account in an inclusive approach when developing approaches to consumer research, paying due attention to the needs of vulnerable groups.
40. Additionally, research on the behaviour of providers and advisors gives useful insights into possible biases that lead to potential consumer detriment.

## **1.7 Consumers' Awareness**

*Consumers should be made aware of the importance of providing financial services providers with relevant, accurate and available information.*

### **Effective Approaches**

#### **Common**

41. Regulators remind consumers to provide the financial services provider or authorised agent with as much relevant information as necessary about their circumstances and not to withhold relevant information so that the latter can fully assess their financial situation and risk appetite and expectations, appropriately characterize them and understand what the consumer really needs and wishes. Consumers' responsibility to provide information is balanced by a regulatory requirement for financial service providers to seek all relevant information from the consumer.

42. Incentives are developed to improve financial education, literacy and capability so as to help consumers understand the importance of providing accurate information to their financial services providers or advisers.
43. Consumers are made aware of their right to receive sufficient information to make an informed decision as well as of the types of information they are entitled to. They are also advised to insist on receiving this information and to understand it.

**Innovative/emerging**

44. Consumers are reminded of the importance of providing adequate information to the financial services provider, authorised agent or financial advisor via SMS and TV and web campaigns.

## **Principle 6: Responsible Business Conduct of Financial Services Providers and their Authorised Agents**

### **Underlying assumptions**

1. The principle of responsible business conduct is important in order to ensure that financial services providers and authorised agents act fairly, honestly, professionally and with due skill, care and diligence when dealing with consumers. Duty of care is necessary in addition to improved transparency because consumers have bounded rationality and therefore cannot be expected to always make decisions that are in their own best interest.
2. Responsible business conduct entails the following elements, where financial services providers and authorised agents:
  - a. avoid as far as possible or adequately manage conflicts of interest, in order to prevent detriment to the consumer.
  - b. have the necessary resources and procedures in place for safeguarding the best interests and ensuring equitable and fair treatment of their consumers.
  - c. communicate with the consumer in a timely and accurate manner, and their language used is clear and comprehensible to the consumer.
  - d. have appropriately qualified and trained staff to sell the products concerned and/or provide advice to consumers and execute the contract/transaction.
  - e. have remuneration designed in a way which encourages responsible business conduct.
3. Financial services providers and authorised agents have a duty to be responsible for the actions of their staff and agents acting on their behalf and therefore ensure that their staff and agents maintain appropriate standards for conduct of business to ensure compliance with laws and regulations and fair treatment of customers.

### **2.1 Key Themes**

#### **2.1.1 Best Interest**

*Financial services providers and authorised agents should have as an objective, to work in the best interest of their customers and be responsible for upholding financial consumer protection.*

### **Effective Approaches**

#### **Common**

4. Acting in the best interest includes providing adequate and objective information and advice to the consumer, duty of care when the circumstances suggest that transparency alone might not be sufficient for a consumer to make a decision in his interest, and a fair execution of the financial services from the beginning of the relationship to its termination.
5. Acting in the best interest includes taking into account and where appropriate (e.g. whether a consumer is advised and/or is offered a product) assess the needs, financial situation, attitude to risk and interests of different types of consumers at the beginning of any dealing with the consumer, before the consumer is offered a financial product or service and at all stages of the contract (i.e. pre-

contractual information, conclusion of the contract and during the contractual relationship, including termination).<sup>4</sup>

6. Acting in the best interest of the consumer excludes practices such as misleading or aggressive commercial practices or exploitation of consumer vulnerabilities and unfair contractual terms
7. Financial services providers, authorised agents and consumer institutions draw the consumer's attention to the consequences of signing a contract that may affect his/her financial position and his/her collateral including in the event of default.
8. Regulators/supervisors regularly perform on-site inspections and off-site monitoring (including analysing third party information sources, such as surveys of financial services providers and authorised agents) to monitor the financial services providers' and authorised agents' customer treatment culture and compliance with regulatory requirements and codes of practice, internal controls and management supervision.
9. A financial services provider only makes the credit available to the consumer where the result of the creditworthiness assessment indicates that the obligations resulting from the credit agreement are likely to be met in the manner required under that agreement.

### **Innovative/emerging**

10. Under the aegis of regulators/supervisors industry associations develop, implement, track and enforce relevant codes of practice that promote acting in the best interest of the consumer for financial services providers and authorised agents.
11. Regulators/supervisors publish the aggregate results of compliance and other investigations as a means of deterring adverse behavior and in the interest of regulatory and corporate accountability.
12. Regulators/supervisors measure the effect of their activities, for example, by regularly undertaking research as appropriate regarding a specific topic (for instance on advice, products, etc) within the market. By doing so the regulator/supervisor not only influences the financial services provider or authorised agent regarding these aspects but such actions can also measure the effectiveness of their regulatory or supervisory practices.
13. In order to avoid financial products leading to consumer detriment, financial services providers that provide products, implement adequate product approval processes to ensure that the products are fit for the targeted groups of consumers.
14. Regulators/supervisors have the power to intervene (amend regulatory requirements, prohibit or set limits) regarding the product design or the marketing of certain risky or complex financial products that could affect consumers.

### **2.1.2 Assessing Consumer Needs**

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<sup>4</sup> The extent to which the practice is applied varies depending on the sector, the financial instrument and proportionality.

*Depending on the nature of the transaction and based on information primarily provided by customers, financial services providers should assess the related financial capabilities, situation and needs of their customers before agreeing to provide them with a product, advice or service.*

## **Effective Approaches**

### **Common**

15. Financial services providers and authorised agents assess the needs, financial situation, attitude to risk and interests of different types of consumers, particularly more vulnerable consumers in order to determine whether the proposed financial product is appropriate for them taking into account their needs and their financial situation. The information required by the financial services provider or by the authorised agent is proportionate according to the nature (e.g. from the banking, insurance or securities sector) and complexity of the product concerned.
16. Approaches including client questionnaires or checklists of client obligations help to assess consumer needs and objectives. The information required from the consumer is proportionate to the objective for which it is required and treated as confidential data.
17. In the case of credit provision criteria on responsible lending are important to protect consumers against repayment problems and resulting debt issues. These criteria help the creditor/the financial service provider to avoid misselling, taking into account the consumer's financial situation (credit worthiness assessment) the purpose of the credit agreement and all other relevant circumstances.
18. For financial products in general a consumer's ability to meet relevant payment obligations is assessed and verified before a transaction is concluded. The assessment of creditworthiness /affordability is based on factors relevant to verifying the prospect of the consumer to meet the obligations under the credit agreement including the financial and economic situation, including income and expenses, of the consumer. The regulator/supervisor issues additional regulation or guidance on these or additional criteria and on methods to assess a consumer's creditworthiness / affordability.
19. Financial services providers have systems, policies and procedures in place to provide consumers with timely and accurate information about their products, to appropriately evaluate loss mitigation applications and to provide additional protections for consumers delinquent in meeting their repayment obligations.

### **2.1.3 Staff Training**

*Staff of financial services providers and authorised agents (especially those who interact directly with customers) should be properly trained and qualified.*

## **Effective Approaches**

### **Common**

20. Financial services providers and authorised agents make sure that the staff dealing with consumers are properly qualified and trained for the service they provide, prior to exercising their activity. They are also required to keep up to date and enhance their professional knowledge through programmes of continuing professional development (CPD) on an ongoing basis.

21. The training is intended to enable staff to acquire and maintain knowledge and competence in legal/regulatory, technical, commercial and administrative aspects and in professional conduct.

### **Innovative/emerging**

22. Financial services providers' and authorised agents' staff are required to pass qualifying training or examinations, if considered appropriate.
23. Regulators/supervisors or other competent authorities set minimum knowledge and competence requirements for employees of financial services providers and authorised agents as well as any outsourced personnel, who have contact with consumers.
24. Regulators and supervisors, the national education authorities, the industry, self regulatory organizations and/or consumers' organisations (depending on the national systems in place), prepare regulation or guidance on the expected minimum standard of training of staff of financial services providers and authorised agents.
25. As far as permissible under national law, mystery shopping, even if it cannot serve as a direct basis for sanctions, can help to assess and encourage financial services providers' and authorised agents' compliance with regulatory requirements and industry codes of practice from the consumer's perspective as well as the qualification and training of financial services providers and authorised agents.

#### **2.1.4 Remuneration Structure**

*The (internal) remuneration structure for staff of both financial services providers and authorised agents should be designed to encourage responsible business conduct, fair treatment of consumers and to avoid conflicts of interest. The remuneration structure should be disclosed to customers where appropriate, such as when potential conflicts of interest cannot be managed or avoided.*

### **Effective Approaches**

#### **Innovative/ emerging**

26. Financial services providers' and authorised agents' remuneration policies are designed in such a way as to encourage responsible business conduct with the aim of preventing mis-selling practices, unreasonable risk taking, or other irresponsible conduct.
27. The regulator, when appropriate, bans remuneration structures and other types of incentives that lead to practices which are not in the best interest of the consumer or prescribe remuneration structures that will minimise the risk of conflicts of interest.
28. The policy, including the structure of the remuneration on which direct sales staff or authorised agents are remunerated is disclosed on a company level at the pre-contractual stage to the consumer.
29. Financial services providers and authorised agents ensure adequate procedures and controls are in place so that staff are not remunerated solely on sales performance but include factors such as consumer' satisfaction, loan repayment performance, product retention, compliance with regulatory requirements/best practices guidelines and codes of conduct which are related to best interest of customers, satisfactory audit/compliance review results and complaint investigation results.

30. Regulators/supervisors introduce rules or guidance on staff remuneration of financial services providers and authorised agents with the aim of ensuring that remuneration policies reflect the duty of the financial service providers to take due account of the interests of the consumer. For example, remuneration policies are not designed in a way that would incentivise their staff to conclude a given number or type of financial products/services to consumers with no explicit consideration of their interests and needs. Rules also specify that the remuneration received by staff should not be solely dependent on the rate or the type of financial services concluded with the consumer.

#### **2.1.5 Responsibility for authorised agents**

*Financial services providers should also be responsible and accountable for the actions of their authorised agents.*

#### **Effective Approaches**

##### **Common**

31. Financial services providers ensure that authorised agents fully understand the products being offered and the intended market segment and are properly trained. Authorised agents also ensure that their own staff or representatives fully understand the products being offered and the intended market segment and are properly trained.
32. Financial services providers retain ultimate accountability for outsourced activities and perform appropriate due diligence before contracting with their authorised agents (such as taking into account the agents' financial soundness, operational capability and capacity and compatibility with the financial services providers' corporate culture).
33. Financial services providers implement controls to monitor the authorised agents' performance on a continuous basis to enhance consumer protection and have procedures to take proper follow-up actions with authorised agents whose performance is not compliant with rules, regulations and codes. Authorised agents have similar controls in place in relation to their staff and representatives.

#### **2.1.6 Conflicts of Interest**

*Where the potential for conflicts of interest arise, financial services providers and authorised agents should endeavour to avoid such conflicts. When such conflicts cannot be avoided, financial services providers and authorised agents should ensure proper disclosure, have in place internal mechanisms to manage such conflicts, or decline to provide the product, advice or service.*

#### **Effective Approaches**

##### **Common**

34. Disclosure includes information on the identity and links with product issuers / providers (financial or commercial links), for instance whether they are considering products from a broad range of providers or only from a more limited numbers of providers or single providers. The existence of any commission or other inducement payable to the intermediary by the product issuers/providers or by third parties is disclosed to consumers before providing any advice or intermediation services<sup>5</sup>.
35. Financial services providers and authorised agents have policies and procedures in place to adequately identify and manage any conflicts of interests arising in the course of their business

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<sup>5</sup> The extent to which the practice is applied varies depending on the sector.

between themselves (including board members, staff members and authorised agents) and their clients.

**Innovative/emerging**

36. If conflicts of interest cannot be adequately managed and the interest of the consumer is at risk, apart from disclosing these conflicts of interest to the consumer prior to doing business or executing the relevant transaction, the financial services provider or authorised agent decline to provide the product, advice or service.
37. Disclosure is not a sufficient solution for all conflicts of interest. In some cases, more stringent measures can be considered; the law and/or regulators/supervisors may consider the banning or restriction of commission payments or other types of incentives on the selling of certain financial products and services.

## **Principle 9: Complaints Handling and Redress**

### **Underlying assumptions**

1. Effective complaint handling and redress mechanisms provided by financial service providers and authorised agents, supervisors, regulators and other independent entities is central to financial consumer protection. Financial services providers and authorised agents set up internal complaint handling and redress mechanisms<sup>6</sup> while other mechanisms are external<sup>7</sup>.
2. A complaint is understood as a statement of a consumers' dissatisfaction with the action, service or product of a financial services provider or an authorised agent. A request for information or clarification or a request for an opinion, which does not also contain an expression of dissatisfaction or deficiency in service, is not considered to be a complaint.
3. Consumers have access to efficient and affordable procedures (whether internal to the financial services provider and/or external) to allow the consumer to make a complaint against a financial service provider or authorised agent and does not face unreasonable barriers in doing so.
4. Different complaint handling and redress mechanisms exist among jurisdictions. They reflect local circumstances, legal and regulatory systems and respond to the varying nature and characteristics of the consumer.
5. Resolving disputes between consumers and financial services providers or authorised agents, through internal complaints handling and out-of-court redress mechanism is in general a quicker and cheaper alternative than seeking redress through the courts, in particular given that most disputes involve small monetary amounts. However, consumers are not precluded from seeking redress through the courts once the dispute has arisen<sup>8</sup>.
6. Internal complaint and redress mechanisms seek to provide a means by which consumers and financial services providers or authorised agents themselves can find a solution to any given deficiency in service and product, including obtaining compensation where applicable.
7. An effective complaint handling and redress mechanism combined with effective complaints reporting and monitoring provides an early warning signal to regulators and supervisors on market deficiencies, bad practices or emerging risks.
8. Staff handling consumer complaints, the financial services providers and authorised agents provide an environment that is open to receiving complaints and understand the benefits of doing so.

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<sup>6</sup> Informal or formal two-party mechanisms, where both parties communicate directly to reach an agreement.

<sup>7</sup> Where a neutral third party either facilitates communications to reach an agreement e.g. mediation or gathers information from both parties and makes a decision e.g. ombudsman schemes, or a combination of the above.

<sup>8</sup> For example, formal adjudicative mechanisms, depending on the nature of the scheme and on the specificities of the national judicial systems, where decisions might be legally binding on both parties e.g. civil courts

## 3.1 Key Themes

### 3.1.1 Complaint Handling and Redress Mechanisms

*Jurisdictions should ensure that consumers have access to adequate complaints handling and redress mechanisms that are accessible, affordable, independent, fair, accountable, timely and efficient. Such mechanisms should not impose unreasonable cost, delays or burdens on consumers.*

#### Effective Approaches

##### Common

9. Regulators, supervisors or governments put in place schemes or mechanisms to handle complaints against financial services providers and authorised agents as well as redress mechanisms and internal complaints handling redress are provided free of charge or for a nominal fee to the consumer.
10. Complaint handling mechanisms are made known to the public through a variety of channels (e.g. postings at financial services providers or authorised agents, branches or websites, the regulators' or supervisors' websites, contracts and key facts documents and marketing materials, as well as in providers' and authorised agents responses to actual complaints), which also provide easily accessible information on how complaints can be lodged with the financial services provider, authorised agents and/or an independent dispute redress system such as Alternative Dispute Resolution (ADR)<sup>9</sup> scheme and how the complaints will be handled. Effective channels of communication vary between jurisdictions.
11. Financial services providers and authorised agents provide consumers with clear and understandable information on the complaints submission procedures for existing internal and external mechanisms.
12. The regulatory framework established for complaints handling should seek to promote resolution of the dispute by the parties. Regulators and supervisors require financial services providers and authorised agents to have effective and accessible internal complaints handling and redress structures in place. Before complaining to an external complaints body or ADR scheme, consumers are encouraged to first seek recourse through the internal complaints handling structure of the financial services provider or authorised agent. In particular in cases when a financial services provider complaints handling structure makes a decision that is not satisfactory to the consumer or it does not respond within a reasonable timeframe, the consumer then has the opportunity to complain to an external complaints body or turn to an independent ADR mechanism, or seek redress through the courts. Consumers are informed both upfront at the time of contracting and at complaint stage of their right to pursue their complaint through an ADR mechanism. An effective mechanism entails fixing a reasonable timeframe for the internal complaint handling mechanism to complete the process.
13. Regulators and supervisors ensure that consumers do not face unnecessary barriers (e.g. unreasonable cost, delays or burdens) to access complaint handling processes.

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<sup>9</sup> Alternative Dispute Resolution (ADR) is a generic term used to describe a range of procedures designed to provide a way of resolving a dispute as an alternative to formal court procedures.

14. Regulators and supervisors request data from financial services providers and authorised agents on complaint types and volumes and analyse the underlying causes of significant consumer complaints or complaint trends.
15. In the absence of rules that stipulate the procedure to be followed in handling complaints, financial services providers and authorised agents are required to inform the supervisory and/or regulatory authority of their complaints handling procedure.

### **Innovative/emerging**

16. Regulators and/or supervisors launch campaigns to enhance awareness of complaint handling and redress mechanism with relevant stakeholders such as governments, the courts, the industry and industry associations, consumer organisations, NGOs and ombudsmen.
17. Regulators and/or supervisors address barriers to participation in complaints handling and redress mechanisms experienced by low-income and less experienced consumers due to lack of awareness, knowledge, confidence, education levels, cost and a lack of alternative financial services providers.
18. Regulators and/or supervisors address barriers to participation in complaint handling and redress mechanisms in the case of cross-border complaints, where the consumer is situated in the country different from the country of the financial services provider.
19. A common complaint handling and redress mechanism applies to the entire financial system in order to improve consumer access to complaint handling mechanism and to provide a seamless platform for redress.

### **3.1.2 Internal Complaints Handling**

*In accordance with the above, financial services providers and authorised agents should have in place internal mechanisms for complaint handling and redress.*

### **Effective Approaches**

#### **Common**

20. Regulators and supervisors require financial services providers and authorised agents to have clear procedures for internal complaint handling and redress which are transparent and easily accessible and with no or little direct costs to consumers.
21. Financial services providers and authorised agents ensure information on complaint handling is easily accessible and made known to consumers through a variety of channels e.g. is displayed in prominent areas such as consumer reception areas and where applicable on a website or in the contractual/disclosure documents. This information is clear and understandable and includes key contact details, the complaints handling timelines to which the financial services providers/authorised agents adhere to, and where relevant the existence of any ADR mechanisms or protocol(s), and contact details.
22. In the case of multiple complaints handling channels, information clearly sets out the appropriate entities according to the subject of the complaint or, by default, a single entry point to which consumer may submit their complaints and which will forward it to the right forum.
23. Consumers are aware of their rights and responsibilities when resolving their complaints with financial services providers and/or authorised agent and of the right to go to an ADR and/or

regulator/supervisor and/or government agency, in particular if they are not satisfied with the outcome of their complaint handling.

24. Financial services providers and authorised agents maintain up-to-date records of all complaints they receive for an appropriate period of time and report complaints data to the regulator/supervisor periodically.
25. Regulators and supervisors set out clear standards for internal complaints handling and dispute resolution mechanisms and monitor their effectiveness.
26. Staff handling consumer complaints have appropriate experience, knowledge and expertise in complaint handling. Appropriate and adequate training should be provided to staff handling complaints. Staff handling complaints are empowered to do so objectively.
27. Complaints are dealt with diligently and in an appropriate timeline stipulated as part of the internal complaints handling structure. The first and any subsequent responses to the complainant are made within an acceptable period of time from receiving the complaint.

#### **Innovative/emerging**

28. Information on how to submit a complaint is clearly visible, on financial services provider and authorised agent websites, and on all contracts, summary sheets and marketing materials.
29. Innovative complaint handling management processes such as a centralised web based portal system are used.
30. Regulators and/or supervisors provide a mechanism whereby all stakeholders including consumer organisations participate and provide inputs in making the system of complaint handling and redress mechanisms more effective.
31. Financial services providers and authorised agents have an efficient, well resourced, dedicated, toll-free phone line for consumer complaints.
32. Financial service providers and authorised agents adopt international or national standards for complaint handling and use established benchmarks for quality control.

#### **3.1.3 Alternative Dispute Resolution (ADR) Mechanisms**

*Recourse to an independent redress process should be available to address complaints that are not efficiently resolved via the financial services providers and authorised agents internal dispute resolution mechanisms.*

#### **Effective Approaches**

##### **Common**

33. In the first instance consumers can gain recourse through the internal complaints handling structure of the financial services provider or authorised agent. However, the consumer has the opportunity to turn to an independent ADR mechanism, in particular, in cases where a financial services provider's

or authorised agent's complaints handling structure makes a decision that is not satisfactory to the consumer.

34. When establishing an ADR mechanism for resolving disputes with financial services providers, policy makers consider a range of possible models e.g. independent ombudsman services, ADR services offered by regulators, conciliation schemes, financial dispute resolution centres, industry associations or industry led schemes that reflect specific jurisdictional legal structures and circumstances and respect specific requirements when provided for by law.

### **Innovative/emerging**

35. Regulators or policy makers seek to ensure the independence of ADR mechanisms and ensure that potential conflicts of interest on the part of ADR mechanisms are prevented or managed.
36. To enhance the financial services providers' participation in the ADR schemes, regulators/supervisors require the financial institutions under their supervision to become a member of such schemes. Depending on the nature of the scheme and on the specificities of the national judicial systems the decisions made by the scheme might be binding on the financial services provider and authorised agents.
37. Regulators use and analyse the decisions of independent redress mechanisms as a means to detect consumer risks and market conduct issues.
38. Collective redress mechanisms (such as collective actions and collective settlements) provide additional possibilities to empower consumers seeking redress related to losses incurred as a result of the actions, services or products of financial services providers or authorised agents. The effectiveness of collective redress mechanisms are examined, taking into account consumer interests.
39. ADR schemes co-operate in cases of cross-border complaints, i.e. complaints where the financial service provider is situated in the country other than the country of the consumer.
40. A comprehensive and regular report, containing the performance of ADR schemes, including number of cases handled, time taken to resolve cases, etc. is published.

### **3.1.4 Complaints Data**

*At a minimum, aggregate information with respect to complaints and their resolutions should be made public.*

### **Effective Approaches**

#### **Common**

41. Analysing consumer complaints data across financial services entities in a standardised reporting format, provides information to regulators and supervisors on how to improve market conduct, and helps regulators to identify consumer risks, regulatory gaps, systemic irregularities in the market place, and to assess the effectiveness of regulatory measures and compliance with laws and regulations.
42. Financial services providers' complaints data, ADRs' mechanism data and data from complaints handling departments, if permitted by law, are published in an appropriate aggregated format like an annual report and include information on cases addressed and their outcome.

**Innovative/emerging**

43. Regulators review the impact of publishing complaints data and the steps financial services providers and authorised agents have undertaken in order to change their behaviour as a result of reporting and/or publication of complaints data to consider its power as an incentive for responsible business conduct.
  
44. National regulators and/or supervisors publish a more detailed breakdown of complaints handled by service providers and authorised agents on an aggregate basis to promote best practice in the market.

