



DRAFT G20 HIGH-LEVEL PRINCIPLES ON FINANCIAL CONSUMER PROTECTION FOR PUBLIC CONSULTATION

1 August 2011

This draft of the High-level Principles on Financial Consumer Protection is circulated for public consultation. This version is still work in progress. It reflects previous discussions and rounds of consultation but does not reflect final views of the Members of the Task Force on Financial Consumer Protection. All responses should be sent to Michael Chapman at michael.chapman@oecd.org and Marta Trzcinska at marta.trzcinska@oecd.org by 31 August 2011.



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At the occasion of their 19-20 February 2011 meeting in Paris, the G20 Finance Ministers and Central Bank Governors called on the OECD, the Financial Stability Board (FSB) and other relevant international organisations to develop common principles on consumer protection in the field of financial services by the time of their fall meeting in October 2011.¹ As requested and agreed by the G20 French Presidency and the FSB, the development of these Principles is being led by the OECD.

The high level Principles are designed to assist G20 countries and other interested economies to enhance financial consumer protection. The principles complement and do not substitute any existing international principles and/or guidelines. In particular they do not address sectoral issues dealt with by standard setters such as IOSCO, BCBS, IAIS. These (non binding) principles will be applicable across all financial service sectors.

The OECD coordinating work on the principles is mainly channelled through the Task Force on Financial Consumer Protection of the Committee on Financial Markets which is open to all G20 and FSB members, and other relevant international organisations and standard setters. Inputs on financial education issues are provided through the OECD International Network on Financial Education (INFE) which comprises representatives from institutions from 86 economies, including all G20 countries.

The Task Force held two physical meetings in April and June. But several rounds of written consultations have also been organised on different versions of the draft principles.

These consultations have up to now included not only the members of the Task Force but also the members of a FSB consultative group, four OECD Committees, relevant international organisations, standard setters and networks and consumer and industry associations.

The current version is circulated for public consultation until 31 August 2011. This version is still work in progress. It reflects previous discussions and rounds of consultation but does not reflect final views of the Members of the Task Force. Based on comments received, a seventh version will be submitted for consideration by the Task Force at its September meeting.

Comments on this draft should be sent to Michael Chapman at michael.chapman@oecd.org and Marta Trzcinska at marta.trzcinska@oecd.org

¹ This complements the G20 leaders call at the November 2010 Seoul Summit. The G20 leaders asked the FSB to work in collaboration with the OECD and other international organisations to explore, and report back at the next summit, options for advancing financial consumer protection through informed choices that include disclosure; transparency and education; protection from fraud, abuse and errors; along with recourse and advocacy. This report will concentrate on aspects linked to consumer credit and related financial stability issues. This work is in progress and responses to a questionnaire are currently being analysed by the FSB.

DRAFT FRAMEWORK

Consumer confidence and trust in a well-functioning market for financial services promotes financial stability, growth, efficiency and innovation over the long term. Traditional regulatory and supervisory frameworks adopted by oversight bodies contribute to the protection of consumers – which is often and increasingly recognised as a major objective of these bodies together with financial stability. However, and while it already exists in several jurisdictions, additional and/or strengthened dedicated and proportionate policy action to enhance financial consumer protection is also considered necessary to address recent and more structural developments.

This renewed policy and regulatory focus on financial consumer protection results inter alia from the increased transfer of opportunities and risks to individuals and households in various segments of financial services, as well as the increased complexity of financial products and rapid technological change, all coming at a time when basic access to financial products and the level of financial literacy remain low in a number of jurisdictions. Rapid financial market development and innovation, the entry of non-traditional financial service providers and third party intermediaries (in some cases unregulated or inadequately regulated), and misaligned incentives for financial service providers can increase the risk that consumers face fraud, abuse and misconduct. In particular, low-income and less experienced consumers often face particular challenges in the market place.

In light of these issues, financial consumer protection should be reinforced and integrated with other financial inclusion and financial education policies. This contributes to strengthening financial stability. It is essential to protect consumers' rights while also recognising the fact that these rights do come with consumer responsibilities. This calls for legal recognition of financial consumer protection, oversight bodies with necessary authority and resources to carry out their mission, fair treatment, proper disclosure, improved financial education, responsible business conduct by financial service providers and their authorized agents, objective and adequate advice, protection of rights and data, protection from fraud and abuse, competitive frameworks, adequate complaints handling and redress mechanisms and policies which address, when relevant, sectoral and international specificities, technological developments and special needs of vulnerable groups. This approach complements and builds upon financial regulation and supervision and financial governance.

In order to ensure effective and proportionate financial consumer protection regimes, it is important that all stakeholders participate in the policy making process.

The following draft principles are addressed to G20 members and other interested economies and are designed to assist the efforts to enhance financial consumer protection. They are voluntary principles, designed to complement, not substitute for, existing international financial principles or guidelines. In particular, they do not address sector specific issues dealt with by the relevant international organisations and the financial standard setters (such as IOSCO, BCBS and IAIS). Different kinds of transactions present different risk profiles. The principles may need to be adapted to specific national and sectoral contexts and should be reviewed periodically by relevant international bodies.¹

DRAFT PRINCIPLES

1. Legal and Regulatory Framework

Financial consumer protection should be an integral part of the legal and regulatory framework, and should reflect the diversity of national circumstances and global market and regulatory developments in the financial sector.

Regulation should reflect and be proportionate to the characteristics, type and variety of the financial products and consumers and be responsive to new products, technologies and mechanisms.² Strong legal and judicial mechanisms should exist to protect consumers from and sanction financial frauds and abuses.

Financial service providers, their authorized agents and advisors that deal directly with consumers, should be appropriately regulated and/or supervised, with account taken of relevant service and sector specific approaches.

Relevant non-governmental stakeholders – including industry and consumer organisations, professional bodies and research communities – should be consulted when policies related to financial consumer protection and education are developed and the access of consumer organisations to such processes should be facilitated.

2. Role of Oversight Bodies

There should be oversight bodies explicitly responsible for financial consumer protection, with the necessary authority to fulfil their mandates. They require clear and objectively defined responsibilities, and appropriate governance; operational independence; accountability for their activities; adequate powers, resources and capabilities; defined enforcement framework and clear and consistent regulatory processes. Oversight bodies should observe high professional standards, including appropriate standards of confidentiality of consumer information and the avoidance of conflicts of interest.

Co-operation with financial oversight authorities and between authorities or departments in charge of sectoral issues should be promoted and a level playing field across financial services should be encouraged as appropriate. International co-operation between oversight bodies should also be encouraged, including for consumer protection issues arising from international transactions and cross-border marketing and sales.

3. Equitable and Fair Treatment of Consumers

Financial consumers should be treated equitably, honestly and fairly at all stages all stages of their relationship with financial service providers. Treating consumers fairly should be an integral part of the day to day good governance and corporate culture of financial service providers. Consumers should benefit from comparable levels of financial consumer protection for similar products and services and for similar level of consumers sophistication. Special attention should be dedicated to the needs of vulnerable groups.

4. Disclosure and Transparency

Financial service providers and their authorized agents should provide consumers with key information that informs the consumer/investor of the fundamental benefits, risks, terms of the product and the remuneration and conflicts associated with the authorized agent through which the product is sold.³ In particular, information should be provided on material aspects of the financial product/investment. Standardised pre-contractual disclosure practices should be promoted where applicable and possible to

allow comparisons between products and services of the same nature. Specific disclosure mechanisms, including possible warnings, should be developed to provide information commensurate with complex and risky products and services.

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 and experience.

Consumers should be made aware of the importance of providing financial service providers with relevant, accurate and available information. Where possible, consumer testing and research should be used to help determine and improve the effectiveness of disclosure requirements.

5. Financial Education and Awareness

Financial education and awareness should be promoted by all relevant stakeholders and clear information on consumer protection and rights should be easily accessible. Appropriate mechanisms should be developed to help existing and future consumers to develop the knowledge, skills and confidence to appropriately understand financial risks and opportunities, make informed choices, know where to go for assistance, and take effective action to improve their own financial well-being.

The provision of broad based financial education and information to deepen consumer financial knowledge and capability should be promoted, especially for vulnerable groups.

Taking into account national circumstances, financial education and awareness should be encouraged as a part of a wider financial consumer protection and education strategy, be delivered through diverse and appropriate channels, and should begin at an early age and be accessible for all life stages. Specific programmes and approaches related to financial education should be targeted for vulnerable groups of financial consumers.

All relevant stakeholders should be encouraged to implement the international principles and guidelines on financial education developed by the OECD International Network on Financial Education. Further national and international comparable information on financial education and awareness should be compiled by national authorities and relevant international organisations in order to assess and enhance the effectiveness of approaches to financial education.

6. Responsible Business Conduct of Financial Services Providers and Their Authorized Agents

Financial Service Providers and their authorized agents should be responsible and accountable for upholding financial consumer protection. Financial Service Providers should also be responsible and accountable for the actions of their authorised tied agents.

A key objective of the financial service providers and their authorised agents should be the best interest of their clients. Depending on the nature of the transaction and based on information primarily provided by clients, financial service providers should assess the financial capabilities, situation and needs of their clients before agreeing to provide them with a product or service. Staff (especially frontline) should be properly trained and qualified. Where the potential for conflicts of interest arise, a firm should ensure fair treatment of all its customers by proper disclosure, internal mechanisms to manage them, or declining to act where conflict cannot be avoided.

The remuneration structure of staff of financial services providers and related authorized agents should be designed to encourage responsible business conduct.

7. Protection of Consumer Rights

The rights of consumers to their deposits, savings, and other similar financial assets should be protected as much as possible, including against fraud, misappropriation of other misuses with a high degree of certainty, and by appropriate control and protection mechanisms.

8. Protection of Consumer Data and Privacy

Consumers' personal financial information should be protected through appropriate control and protection mechanisms. These mechanisms should define the purposes for which the data may be collected, processed and disclosed (especially to third parties), and the acknowledgement of the rights of consumers to be informed about data sharing, to access data and to obtain the correction and/or deletion of inaccurate, or unlawfully collected or processed data.

9. Complaints Handling

Jurisdictions should seek to 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. At least aggregate information with respect to complaints and their resolutions should be made public. In accordance with the above, financial service providers and their authorized agents should offer the primary avenue for complaint handling and redress. Recourse to an independent process should be available to address complaints that are not resolved via the service provider's mechanisms.

10. Competition

Nationally and internationally competitive markets should be promoted in order to provide consumers with greater choice amongst financial services and place pressure on providers to keep prices competitive and service quality high. Where appropriate, consumers should be free to search and switch between products and providers easily and at reasonable and disclosed costs.

¹ This could, in particular, include voluntary peer reviews by OECD, FSB and standard setters bodies.

² Where relevant, appropriate mechanisms should be developed to address new delivery channels for financial services, including through mobile, electronic and branchless distribution of financial services, while preserving their potential benefits for consumers.

³ Financial Service Providers and their authorised agents should provide clear, concise, accurate, reliable, comparable, easily accessible, and timely written 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 they provide. In particular, information should be provided on prices, costs, penalties, surrender charges, risks and termination modalities. Appropriate information should be provided at all stages of the relationship with the customer.

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