Introduction

No doubt about the link between protecting consumers from abusive products and practices, and the safety and soundness of the financial system.

Sheila Bair
Chair of the US Federal Deposit Insurance Corporation
Global Financial Crisis

- Civil unrest and disobedience in the aftermath of the Global Financial Crisis
- Something seriously wrong in the financial sector
- Public concern:
  - Consumer rights have been violated
  - Consumer interests of only second importance

Second Class Status of Consumers

- Financial bailouts + concept of “too big to fail”
  - Consumers to pick up the bill
- Business, government, consumers
  - Do not understand the complexity of financial products
Second Class Status of Consumers

- How much focus is being put on the cost in human terms, resulting from market failure?
- How much effort is given to ensuring that the failures we have seen in the past will not happen again?

Will consumer protection undermine financial stability?

Industry financially dependent on:
- weak consumer protection
- Abusive relations with its clients
Will consumer protection undermine financial stability?

- **Terrible dilemma**
  - Consumer protection measures are reformed
    - Destabilize the industry
  - OR
  - Continue to tolerate abusive practices
    - Instability and human misery

Report of Financial Stability Board (FSB)

- **Recent report by Financial Stability Board (FSB)**
  which was requested and endorsed by the G20 calls for more work on institutional arrangements to protect consumers, including
  - Clear mandates
  - Accountability
  - Sufficient resources
Report of Financial Stability Board (FSB)

- FSB also recommended that international organization could:
  - Help maintain the international momentum on consumer protection
  - Strengthen the connection with domestic developments
  - Facilitate engagement with consumer advocacy groups and other stakeholders
  - Steer the work in a productive direction

Hong Kong Experience

Deposit guarantees

Hong Kong Deposit Protection Scheme

- introduced over 5 years ago
- administered by an independent statutory body
- responsible for maintaining a deposit protection scheme
Hong Kong Experience

Deposit guarantees

- Insolvency procedures should be reformed so that the rank of creditors is changed to put depositors at the top
- Deposit protection schemes should provide cover for each separate brand and create a seamless transition of essential banking services, with consumers maintaining access to deposits used for transactional banking
- Any payment from the protection scheme regarding deposits held in savings accounts should be made within a fixed and reasonable time limit

Firewall between safe and unsafe products

Sale of Lehman Brothers “minibonds”

- Over 20,000 consumer complaints
- Legal action sponsored by HKCC through its Consumer Legal Action Fund

Legal issues

- Fiduciary relationship between banks and customers?
- Bank had acted in the best interest of consumers?
- Misrepresentation / negligent misstatement / omission of material facts?
Hong Kong Experience

Sale of Investment Products

- Hong Kong Monetary Authority recently drew attention to conduct-related issues to ensure adequate protection of investors.

- Adequate disclosure of relevant material information, particularly on some special product features and risks of certain investment products
  - Subordinated debentures
  - Perpetual debentures
  - Contingent convertible or bail-in debentures
  - Basket equity-linked products
Hong Kong Experience

Sale of Investment Products

- **Product due diligence process** – including the issuer’s credit risk
- **Include customer’s concentration risk in performing suitability assessment**
- **Maintain proper records of client orders. Use of mobile phones for receiving client order instruction is discouraged.**

Consumers International Recommendations

**Information**

- **Consumers have responsibility to provide necessary information to lenders regarding their capacity to repay the loans.**
- **Lenders have responsibility to seek such information.**
Consumers International Recommendations

**Information**

- Information provided to consumers must be clear, sufficient, reliable, comparable and timely.
- Failure to provide information should cause the contract to be voidable.
- Standard formats should be used for the presentation of information.
- Financial service providers should be responsible for testing the quality and comprehensibility of the information provided.
- Contracts must include clear upfront pricing.

**Disclosure**

- Financial advice should be separated from sales based remuneration.
- Protection against inappropriate marketing methods.
- Removal of remuneration structures for financial service providers that lead to conflicts of interest that impinge on consumers.
Human Rights

- In Chinese culture, the principle of 人情 (Yan Ching or Ren Qing in Mandarin)
  - plays a vital role in personal behaviour
  - final criterion used to determine what is right and what is wrong
  - recognizes a citizen’s individuality in terms of their intellectual, emotional and spiritual feelings.
  - Basis for decisions and behaviour that are not precisely covered by law

Conclusion

- Need a new paradigm of thought
- To develop a mindset to secure a positive future for both consumers and business
- Financial sector cannot continue to disregard the consequences of their actions on ordinary human beings.
THANK YOU!