

**OECD-ADBI 12th Roundtable on  
Capital Market Reform in Asia**

**Session 4: Financial Education and  
Consumer Protection in Asia**

**Hong Kong's Experience and Remaining Challenges**

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8 February 2012**



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**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**

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## 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*

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## 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*

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## 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?*

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## Will consumer protection undermine financial stability?



*Industry financially dependent on:*

- *weak consumer protection*
- *Abusive relations with its clients*

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## 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***

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## 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***

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## 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*

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## 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*

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## 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***

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## Hong Kong Experience



### ***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 ?***

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## Hong Kong Experience



### Sale of Investment Products

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

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## Hong Kong Experience



### Sale of Investment Products

- *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*

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## 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.*

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## 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.*

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## 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.***

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## Consumers International Recommendations



### 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.*

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## 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*

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## 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.***

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***THANK YOU !***