

Financial Consumer Protection

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Background

Industry supports efforts to develop common principles for consumer protection in order to increase confidence in the financial system, to promote a level playing field for all financial service providers and to eliminate unacceptable practices that undermine such goals.

The Business and Industry Advisory Committee to the OECD (BIAC) therefore welcomed the call by G20 Finance Ministers and Central Bank Governors on 18-19 February 2011 for the OECD, FSB and other relevant organisations to develop *common principles* on consumer protection in the field of financial services. These principles, once finalised, could potentially help to promote shared responsibility for financial consumer protection among financial services providers, and governments, in conjunction with recognition of the responsibility of consumers for their financial decisions, in order to contribute to confident and informed participation of consumers in the financial system.

The 2008-09 financial crisis brought to light many serious challenges, among them issues for consumers caused by certain financial products, and by sometimes-insufficient consumer protection and financial education. In response to these challenges, BIAC believes that appropriate financial regulation should be predictable, clear, transparent and well-targeted, with the central objective of restoring confidence to consumers while strengthening the long-term stability and efficiency of the global financial system. Regulation should ensure that consumers have sufficient information to make informed choices among financial products, while allowing providers flexibility to compete on price and innovation.

At the same time, it is important to avoid any forms of new legislation and regulation that might discourage innovation or competition, or unnecessarily impede the provision of suitable financial services to consumers. This could in turn result in fewer products, less consumer choice, fewer opportunities for diversifying investments and controlling risks, and less efficient markets in general.

It is therefore essential to strike the right balance between encouraging consumer confidence and trust on the one hand through enhanced consumer protection, while on the other hand ensuring that financial markets can function and thrive in order to promote growth, efficiency and innovation.

Ahead of the G20 French Presidency/OECD High-level Seminar on Financial Consumer Protection, to be held immediately prior to the G20 Finance Ministers' Summit on 14-15 October 2011, BIAAC is pleased to provide the following **four key messages** to policymakers:

1. Define the target groups
2. Recognise that governments, business and consumers have shared responsibilities
3. Work towards a common global approach
4. Co-operate closely with the financial industry

Key Messages

1. Define the target groups

In order to take meaningful steps in improving financial consumer protection, it is important to first define “consumers” and “financial services providers”. Recognising the heterogeneous nature of consumers is important in order to recognise that they have different needs and capacities, necessitating different means and levels of financial protection.

In the case of the G20 common principles on financial consumer protection, for example, it should be clarified that “consumers” means *retail* consumers, rather than high-net worth individuals or institutions (which have the means, background and access to professional advice that many retail consumers lack). Meanwhile, “financial service providers” should be defined as broadly as possible to include any firm that provides financial services to consumers.

2. Recognise that governments, business and consumers have shared responsibilities

Financial consumer protection is the shared responsibility of governments, business and consumers, and it would be erroneous to imply that financial service providers should shoulder *all* of the responsibility. Financial service providers are of course responsible for compliance with the laws and regulations concerning such protection, and often voluntarily establish higher standards of conduct.

In recognising that financial consumer protection is a shared responsibility, it is important to address the notion of consumers' responsibilities. For instance, a consumer who is willing to invest in a riskier product in order to achieve better returns should be fully prepared to bear responsibility should the investment turn sour. Assuming that proper disclosures have been made and the provider has performed the duties expected of it, consumers bear the responsibility to evaluate the information provided to them, educate themselves about the products they undertake (especially if they choose a more risky investment product or, for example, a mortgage with various options), and ultimately take responsibility for the risks of their choices. Consumer protection should not mean protection against all investment risks.

Where providers have met requirements incumbent on them and have thus properly disclosed risks, consumers should have *ex post* recourse for legitimate claims, but should not expect compensation when risks (which are inevitable if consumers wish an array of attractive products from which to choose) are realised. Anchoring consumer protection to the principle that well-informed consumers take responsibility for their decisions will furthermore assure that all parties have appropriate incentives.

3. Work towards a common global approach

It is imperative that countries work together towards global convergence of efforts to improve financial consumer protection. The G20 agenda has stressed regulatory convergence as an important component of global financial stability, and G20 Finance Ministers' specifically called on the OECD, FSB and other international organisations to develop "common" principles on financial consumer protection.

This is important for two main reasons. Firstly, it would help to avoid gaps in national standards and regulatory fragmentation, which is damaging to compliance, efficiency in service provision and regulatory effectiveness. Secondly, financial service providers are active in many retail markets, meaning that consistency of rules across markets is critical. Consistency is needed in order to: (i) develop systems and procedures to assure compliance with the rules; (ii) develop products that can be used in multiple markets; (iii) encourage efficiency and effectiveness of supervision, including the facilitation of co-operation among supervisors when appropriate; and (iv) facilitate competition by ensuring a level playing field for financial service providers.

4. Co-operate closely with the financial industry

Policymakers should engage in close consultation with the financial industry when making and implementing policy actions on the issue of financial consumer protection. The financial services industry and other relevant stakeholders need to be involved in order to help make sure that adequate and proportionate financial consumer protection regimes are effective and conducive to sustainable growth and innovation.

This dialogue should take into account that many of the complexities of modern financial instruments are designed to reduce risks for consumers, and it must accordingly be clear that complex financial products do not *necessarily* imply that they are more risky. Therefore financial consumer protection should boost understanding by consumers of the risks and potential results of products, rather than simply aim at reducing the complexity of products.

In conclusion, the industry has a strong interest in consistent, proportionate, and effective consumer financial protection and stands ready to contribute to further discussion of these important issues.