

# Working Paper NO. 11

Financial service delivery between  
consumer inclusion and  
protection - A fine balance

By  
**Zainabu Asiimwe**

Vol. 5 series 11



**AMFIU**

ASSOCIATION OF MICROFINANCE  
INSTITUTIONS OF UGANDA

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Deutscher  
Entwicklungsdienst

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A fine balance – Financial service  
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and protection

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## 1.0 Document Summary

Consumer protection is part of the global effort of promoting transparency in financial service delivery. There are efforts in many countries – both high- and low-income – to improve transparency of various segments of the financial sector. This working paper looks at the financial segments of the financial sector. The international debate in microfinance has had several strides in terms of development as regards the breadth and depth with various initiatives around transparency in the sector. The debate on financial protection is particularly crucial because it is linked to the (declared) goal of poverty alleviation e.g. PEAP for the Government of Uganda.

Transparency in financial service delivery involves consumer protection, consumer education (financial literacy) and consumer advocacy. Consumer protection ensures that consumers receive information that will allow them to make informed decision, make choices and are not subject to unfair and deceptive practices have access to recourse mechanisms to resolve disputes when transactions go awry, and are able to maintain privacy of their personal information. Financial literacy (which to a greater extent is part of consumer protection) gives consumers the skills to understand and evaluate the information they receive. Together consumer protection and financial literacy set clear rules of engagement between financial firms and their retail customers — and help narrow the knowledge gap between consumers and the financial institutions.

## 2.0 Consumer Protection

### 2.1 Introduction

Each year the global economy adds an estimated 150 million new consumers in financial services. Most live in developing countries, where consumer protection and financial literacy are still in their infancy. In countries that have moved from central planning to market economies, empowering consumers has become a prerequisite for efficient and transparent financial markets. In addition, technological innovation and increased competition for financial services worldwide have created a wide array

of financial services available to consumers. As a result, government authorities worldwide are starting to look at effective policies for improving consumer protection in financial services and financial literacy — and take a proactive approach to reform of their retail financial markets.

Consumer protection ensures that consumers receive information that will allow them to make informed decisions and choices. It also ensures that consumers are not subject to unfair and deceptive practices, that they have access to recourse mechanisms to resolve disputes when transactions go awry, and that privacy of their personal information is maintained. Financial literacy gives consumers the skills to understand and evaluate the information they receive. Together consumer protection and financial literacy set clear rules of engagement between financial firms and their retail customers — and help narrow the knowledge gap between consumers and their financial institutions.

At its heart, the need for consumer protection arises from an imbalance of power, information and resources between consumers and their financial service providers, placing consumers at a disadvantage. Consumer protection aims to address the risk of such market failure. Therefore, consumer protection encompasses all means necessary to safeguard the interests of consumers and empowers them to know their rights/ obligations and to make educated decisions when demanding for financial services.

Consumer protection is part of the global effort of promoting transparency in financial service delivery. Financial institutions know their products well but individual retail consumers may find it difficult or costly to obtain sufficient information on their financial purchases. In addition, complex financial products can be difficult to assess, even when all relevant information is disclosed. Imbalances are also present in cases where:

- a. Transactions are rare (for example, when taking a mortgage on a personal residence),
- b. Entry or exit costs are low (such as for financial intermediaries), thus allowing disreputable firms to emerge, or
- c. The payoff to the consumer is postponed or very high (for example, in taking “negative amortization” mortgage at below-market interest rates where the principal amount increases rather than declines over

time).

Similarly for many long-term investment products, performance cannot be evaluated for many years after the product was bought.

Consumer protection in financial service delivery is key to the efficient delivery of financial services. There are various reasons advanced to explain this and these involve the following that are prevalent in the operation by most financial institutions.

- Aggressive unprofessional marketing by microfinance institutions
- Over indebtedness of the productive poor has raised public concern.
- Commercialization of microfinance has created greater need for consumer awareness as a way of protection.
- Vulnerable borrowers are exposed to potentially abusive lenders and make poor borrowing decisions.
- Attraction of the industry by regulators and politicians.
- Growing customer dissatisfaction
- Moral arguments focus on imbalance of power between lenders and borrowers.
- Illiterate and low levels of awareness of the borrowers
- Strategic reasons aiming at promoting harmony (transparency) amongst policy makers/ government, MFIs and consumers.

## 2.2 Consumer protection and Financial Literacy

Consumer protection and financial literacy promote efficiency, transparency and deepening of retail financial markets. The retail public operates in a marketplace where imbalances of information, resources and power are on the side of financial institutions. Consumer protection attempts to redress the imbalance, giving individuals clear and complete information on which to make informed decisions and by prohibiting financial institutions from engaging in unfair or deceptive practices. Consumers who are empowered with information and basic rights — and who are aware of their responsibilities — provide an important source of market discipline to the financial

sector, encouraging financial institutions to compete by offering better products and services rather than by taking advantage of poorly informed consumers.

Financial literacy helps consumers understand the information and make risk/return choices that optimize their financial wealth. Consumer protection also improves governance of financial institutions. By strengthening transparency in the delivery of financial services and accountability of financial firms, consumer protection helps build demand for good governance of the sector.

In addition, consumer protection and financial literacy help promote deepening of the retail financial sector, attracting first-time consumers to access financial services and building public trust in financial institutions.

Consumer protection also helps financial firms in facing the many risks that arise in dealing with retail customers. Three key risks are identified related to possible “mis-selling” financial products to retail customers. They are:

- (1) Legal risk, if successful lawsuits from collective action by customers or enforcement actions by supervisory agencies result in obligations to pay financial compensation or fines;
- (2) Short-term liquidity risk and long-term solvency risk, if retail customers are treated unfairly and thus shun the financial institution and withdraw their business.
- (3) Contagion risk, if the problems of one financial institution (type of financial product) spread across the financial sector.
- (4) Effective consumer protection can help ensure that the actions of financial firms do not make them subject to criticisms of mis-selling.
- (5) Consumer protection also protects the financial sector from the risk of over-reactions to weaknesses in consumer disclosure.

The impact of too little consumer protection always brings about a political response to collapses of parts of the financial sector may be to over-compensate with heavy regulation. All regulation (including that for consumer protection) imposes a cost on financial institutions but some regulation is needed.

It is however noted that improving consumer information can help markets function efficiently. Policies to provide comparable information to consumers, increase consumer awareness of market conditions, reduce

consumer search costs, and clarify hidden costs all help to give consumers essential information on which to make decisions. Supporting such programs are policies to prevent misleading and fraudulent marketing.

## 2.3 Consumer protection and market conduct regulation

Consideration needs to be given to ensuring that market conduct regulation is not too heavy. Government prior role is to set the “rules of the game” and to sanction compliance. Thus, consumer protection regulation would be a set of rules that counter-balances information asymmetries and gives incentives for prudence of both providers and users of financial services.

Rules need to be proactive to prevent abuses and not be reactive to the problems of past. At the same time, care must be taken since regulation can stifle financial innovation. Regulation can also be abused by existing market participants to block competition by new entrants into the market.

Government intervention into conduct of market participants should only be considered when it is both feasible and cost effective to do so. The first choice before direct intervention can be self-regulation to improve market conduct. In developed countries, self regulation is sometimes an effective form of alternative regulation since the guidelines set by professional associations e.g. use of codes of practice, conduct generally reflect the market expertise of professional participants and minimize interference in the functioning of the market. However self-regulation in developing countries often has difficulties, particularly where institutional capacities are limited and laws and regulations are not fully enforced.

Furthermore in many developing countries increased consumer protection could potentially harm the interests of consumers, by reducing the willingness of financial institutions to provide services. Market conduct regulators should have sufficient authority and institutional capacity to enforce the rules (i.e. by naming the institutions that violate laws or regulations or applying fines).

However in many developing countries, the enforcement capacity of regulators may be limited and additional government regulation may be ineffective and dampen

the development of the financial sector. On the other hand, weak consumer protection that fails to adequately protect low-income consumers can discourage them from trusting financial service providers. The right levels of consumer protection are needed to ensure that financial markets are both efficient and transparent.

## 2.4 Developing consumer protection and Financial Literacy measures

Design of consumer protection and financial literacy measures should take into account recent research in behavioral economics. Psychological biases may influence consumers to make choices that are neither rational nor optimal.

- a) They are overoptimistic about their financial futures and thus unable to accurately forecast their future financial status.
- b) Individuals often over-estimate their financial capabilities, including their understanding of the concept of the time value of money and the impact of compound interest over time.
- c) Other consumers fall victim to projection bias, that is, the prediction of personal preferences into the future.
- d) Other related effects are hyperbolic discounting (where consumers apply a very high discount rate to future income and thus reduce the present value of savings to very low levels), impulse purchasing and weaknesses in self-control.
- e) Biases may also include mistaken beliefs where consumers assume that interest rate charges or penalties will not apply to them.

There is need for surveys of financial literacy and consumer spending habits as essential background for designing not only programs of financial education but also measures of improving consumer information policies.

Its from the above perspective that a financial sector should provide consumers with:

- a) Transparency by providing full, plain, adequate and comparable information about the prices, terms and conditions (and inherent risks) of financial products and services;
- b) Choice by ensuing fair, non-coercive and

- reasonable practices in the selling of financial products and services and collection of payments;
- c) Redress by providing inexpensive and speedy mechanisms to address complaints and
  - d) Resolve disputes;
  - e) Privacy by ensuring control over access to personal financial information.

In addition, consumers should have access to programs of financial education that enable them to develop the financial capability required to understand financial products and services and exercise their rights (and responsibilities) as financial consumers. Training in financial issues should also empower consumers to make wise and informed decisions about their finances — and to plan their financial needs over a lifetime.

Addressing the main weaknesses in consumer protection can be done quickly with immediate impact even if improving financial capability is a long-term effort. The experience of industrialized countries over the last thirty

years — and more recently in developing countries — has identified lessons of “what works and what does not” in consumer protection.

Consumer behavior determines the level of financial capability in households. The issues of consumer protection and financial literacy (and capability) are directly linked as “two sides of the same coin.” It is not practical to consider measures of improving financial consumer protection without also looking for ways of strengthening financial literacy. Financial education should therefore be encouraged but it should be rigorously tested and evaluated and be viewed as a long term investment.

A clear set of accepted practices on financial consumer protection and literacy would help regulators strengthen their financial sectors. Regulators have noted the pressing need for a set of guidelines of market conduct against which the existing policies, laws and regulations, institutions and initiatives can be measured and assessed.

**Table 1: Practical example of consumer protection during a lending cycle**

Stage in cycle	Risks of lending Abuse	Examples of Protective Measures.
Before Disbursement	<ol style="list-style-type: none"> <li>1). Incorrect or misleading advertising (e.g. of interest rates on loans, collateral and timing of loan disbursements)</li> <li>2). Kickback requests.</li> </ol>	<ol style="list-style-type: none"> <li>1. Require that all fees be declared and interest rates stated.</li> <li>2. Prohibit certain types of marketing.</li> <li>3. Monitor lending behavior to eliminate kickbacks.</li> </ol>
At time of Disbursement	<ol style="list-style-type: none"> <li>1). Inappropriate contract wording</li> <li>2). Reckless lending (e.g. without due reference to the borrower’s ability to repay).</li> <li>3). Unfair discrimination in lending decision.</li> </ol>	<ol style="list-style-type: none"> <li>1. Require (or prefer) standardized contracts with full disclosure of costs and other terms.</li> <li>2. Contracts need to be simplified and explained to the consumer</li> <li>3. Loan appraisals need to be done</li> <li>4. Require that reason be given for rejection.</li> </ol>
After Disbursement	<ol style="list-style-type: none"> <li>1). Inaccurate recording of borrower payments.</li> <li>2). Illegal payment collection methods.</li> <li>3). Actions against a borrower who has no legal recourse or defence.</li> <li>4). Abusive behavior in the collection process.</li> <li>5). Sharing of borrower information with unauthorized entities.</li> </ol>	<ol style="list-style-type: none"> <li>1). Require lenders to provide regular statements of account.</li> <li>2). Require lenders to follow legal process for collections.</li> <li>3). Implement dispute-resolution procedures</li> <li>4). Prohibit certain collection practices</li> <li>5). Require borrower’s signature before sharing information with another entity.</li> </ol>

## 3.0 Good Practices in Consumer Protection

From the above discussion, Good Practices may be derived that focus on effective, prudence-oriented actions by financial regulators and supervisors, other government authorities, financial institutions and their professional associations, and consumer advocacy organizations. Several initiatives are underway worldwide to develop useful standards in consumer protection in financial services. They orbit around governments and associations e.g. AMFIU is the umbrella body of microfinance institutions of Uganda has been involved in developing and implementing an industry standard Consumer Code of Practice with commitment and provisions. These standards could include:

- consulting with financial institutions, consumers and associations to develop proposals that meet consumer needs and expectations.
- having the financial capability of consumers measured periodically through broad-based surveys that are updated from time to time.
- ensuring that their financial regulators and competition authorities consult with one another.
- considering the impact of competition policy in financial services on consumer welfare, and especially limits on choice.
- have their competition authorities conduct and publish periodic assessments of competition in retail financial institutions and make recommendations on how competition in retail financial institutions can be enhanced.

Many issues have come up on what constitutes good practices in consumer protection in financial services provision. They may be condensed in a checklist as follows:

### 3.1 Good Practices in consumer protection

#### 3.1.1 Consumer Protection (Financial Institutions)

- a). Institutional operations should provide clear consumer protection rules regarding financial

products and services. All necessary institutional arrangements should be in place to ensure thorough, objective, timely and fair implementation and enforcement of the rules.

- b). Prudential supervision and market conduct regulation can be placed in separate agencies or lodged in a single institution but an equal balance between prudential supervision and consumer protection is needed.
- c). A principles-based consumer code of practice for MFI's for financial institutions should be developed in consultation with the financial sector (and consumer protection associations) and monitored by a statutory agency. The code may be augmented by voluntary codes of conduct for individual financial institutions.
- d). All legal entities that either collect funds from consumers or lend funds to consumers should be licensed and supervised by the appropriate prudential or market-conduct regulators.
- e). The judicial system should provide credibility to the enforcement of the rules. The media and consumer associations should be active in promoting financial consumer protection.

#### 3.1.2 Disclosure and Sales Practices

- a). Before a consumer purchases a financial product; the financial institution should provide a written copy of the general terms and conditions as well as those that apply to the product.
- b). For all financial products, consumers should receive a single-page Key Facts Statement (KFS), written in plain language, describing the key terms and conditions, and based on industry agreed standards for the minimum types of information to be published for each type of financial product.
- c). Before making recommendations, financial institutions should gather sufficient information from the consumer to ensure that the product or service is appropriate to that consumer.
- d). Financial products with a long-term savings component — or those subject to high-pressure sales practices — should have a “cooling-off” period when the consumer may cancel the contract without penalty. For products that are sensitive to

changes in interest rates or other market factors, the cooling-off period would only apply where the consumer bears any losses caused by changes in market factors.

- e). Whenever a consumer is obliged to purchase any product as a pre-condition for receiving another product from the financial institution, the borrower should be free to choose the product provider). In their advertising, financial institutions should disclose that they are regulated and by which regulatory agency.
- g). Staff of financial institutions who deal directly with consumers should receive adequate training, suitable for the complexity of the products or services being sold.
- h). Professional associations should develop a standard simple format for financial institutions to disclose their annual financial results so the public can form an opinion of the financial viability of each firm.

### **3.1.3 Customer Account Handling and Maintenance**

- a). Financial institutions should prepare monthly statements for each customer regarding key details of financial transactions. For investment products, the customer should receive periodic statements of the value of their investment.
- b). Customers should be individually notified of changes in interest rates, fees, and charges as soon as practicably possible.
- c). Financial institutions should maintain up-to-date customer records and provide ready and free access to customers to their records.
- d). Clearing of customer transactions should be based on clear statutory and regulatory rules — or be subject to effective self-regulatory arrangements.

### **3.1.4 Debt Recovery**

- e). No financial institution — or third party — should employ abusive collection practices against customers of financial institutions.

### **3.1.5 Privacy and Data Protection**

- a). There should be set out basic rules of information-sharing among participants of the credit reporting system, including credit registers, reporting institutions and users of credit reports.
- b). There should be a set out basic consumer rights regarding information sharing, including access, rectification, blocking and erasing of errors or outdated personal information. Financial institutions should inform customers of their policies for the use and sharing of customer personal information.
- c). There should be specification on the extent and timeliness of the updating of customer information, give customers ready and free access to their credit reports (at least once a year) and provide procedures for correcting mistakes on credit reports.
- d). Financial institutions should be obliged to protect the confidentiality and technical security of customer data. The law should state specific rules and procedures concerning the release of customer records to any government authority.

### **3.1.6 Dispute Resolution Mechanisms**

- a). Financial institutions should have clear procedures for handling customer complaints. Financial institutions should maintain up-to-date records of all complaints received.
- b). Consumers should have access to an affordable and efficient mechanism for recourse, such as an independent financial ombudsman or equivalent institution with effective enforcement capacity. The institution should act impartially and independently from the appointing authority, the industry, and the institution with which the complaint has been lodged.
- c). Statistics of customer complaints, including those related to breaches of the codes of conduct should be periodically compiled and published.
- d). Regulatory agencies should be legally obliged to publish statistics and analyses related to their activities regarding consumer protection — and propose regulatory changes or financial education

measures to avoid the sources of systemic consumer complaints and disputes. Professional associations should also analyze the complaint statistics and propose measures to avoid recurrence of systemic consumer complaints.

### 3.1.7 Guarantee and Compensation Schemes

- a). The law should ensure that the regulator can take prompt corrective action in the event of distress at a financial institution.
- b). The law on financial insurance or guarantee fund should be clear. In the absence of financial insurance or guarantee fund, there should be an effective and timely payout mechanism in the event of insolvency of a financial institution.
- c). Depositors should enjoy higher priority than other unsecured creditors in the liquidation process of a financial institution. The law dealing with the insolvency of financial institutions should provide for expeditious, cost-effective and equitable provisions to enable the maximum timely refund of deposits to depositors.

### 3.1.8 Financial Education

- a). Basic financial concepts, such as budgeting, risk/return tradeoffs and value of long-term financial health, should be taught in schools.
- b). Regulators and professional associations should provide sufficient information to mass media for analysis of issues related to financial products and services.
- c). Financial regulators should publish independent information on the costs, risks and benefits of financial products and services.
- d). Non-governmental organizations should be encouraged to provide consumer awareness programs to the public regarding financial products and services.

## 4.0. Disclosure and Sales Practices

### 4.1. Know Your Customer (KYC)

When making a recommendation, to a consumer, a bank should gather, file and record sufficient information from the consumer in order to ensure that the bank's recommendation, product or service is appropriate to that consumer. The extent of information the bank gathers should: (a) be appropriate to the nature and complexity of the product or service being proposed to or sought by the consumer; and (b) enable the bank to provide a professional service.

### 4.2. Affordability and Products

When making a recommendation to a consumer, the bank should ensure that:

- a. Any product or service it offers to that consumer is in line with the need of the consumer;
- b. When offering any products or services, the consumer should be given a range of options to choose from to meet his or her requirement,
- c. In recommending a product or service to that consumer, sufficient information on the product or service should be provided to enable the consumer to select the most suitable product or service. This good practice gleans the spirit of avoiding over-indebtedness and helping consumers make appropriate decisions on their financial needs. It is not uncommon for consumer protection agencies to call on financial service providers to treat customers fairly, make sure that consumers can afford their mortgage and if not, and ensure that they contact their lender or a free independent advice agency immediately.

### 4.3 Cooling-off Period

Unless explicitly waived in advance by a consumer in writing, a bank should provide the consumer a "cooling-off" period of a reasonable number of days immediately following the signing of any loan agreement between the

bank and the consumer during which time the consumer may, on written notice to the bank, treat the agreement as null and void without penalty to the consumer of any kind. As it is described, this is an important safeguard for enabling an individual to withdraw from an arrangement with impunity.

#### 4.4 Preservation of Rights

Except where permitted by applicable legislation, in any communication or agreement with a consumer, a bank should not exclude or restrict, or seek to exclude or restrict:

- a. Any statutory liability or duty of care of the bank to the consumer;
  - b. Any duty to act with skill, care and diligence toward the consumer in connection with the provision by the bank of any financial service or product; or
  - c. Any liability arising from the bank's failure to exercise the degree of skill, care and diligence that may reasonably be expected of it in the provision of any financial service or product to the consumer.
- This good practice concerns the right of privacy and data protection of consumers. This standard requires that consumers can not be forced to underwrite contractual clauses that would significantly reduce their rights.

#### 4.5 Regulatory Status Disclosure

In all of its advertising, whether by print, television, radio or otherwise, a bank or financial institution should disclose:

- (a) That it is regulated
  - (b) The name and address of the regulator.
- This is in line with responsible and fair advertisement practices. The consumer should be able to verify the claims made by the advertiser.

#### 4.6 Terms and Conditions

Before a consumer may open a deposit, current or loan account at a bank, the bank should provide the consumer with a written copy of its general terms and

conditions, as well as all terms and conditions that apply to the account to be opened. Collectively, these Terms and Conditions should:

- a. Disclose details of the bank's general charges, the bank's complaints procedures, information about any compensation scheme that the bank is a member of, and an outline of the action and remedies which the bank may take in the event of a default by the consumer;
- b. Include information on the methods of computing interest rates paid by or charged to the consumer, any relevant non-interest charges or fees related to the product offered to the consumer, any service charges to be paid by the consumer, restrictions, if any, on account transfers by the consumer and the procedures for closing an account;
- c. Set forth clear rules regarding: (i) the reporting of unauthorized transactions, (ii) stolen cards and (iii) liability; and
- d. Be written in plain language and in a font size and spacing that facilitates the reading of every word.

#### 4.7 Key Facts Document

A bank should have a single-page Key Facts Document, written in plain language, in respect of each of its accounts, types of loans or other products and, prior to a consumer opening any account at, or signing any loan agreement with, the bank, the consumer should have delivered a signed statement to the bank to the effect that he or she has duly received a copy of the relevant document from the bank.

A Key Facts Document constitutes an efficient way to inform consumers about the credit reporting systems, their basic rights and the existing possibilities for disputing information. It would be of special importance in countries with new financial consumers who are inexperienced.

#### 4.8 Advertising and Sales Materials

- a. Financial Institutions should ensure that the advertising and sales materials and procedures do

not mislead customers.

- b. All advertising and sales materials should be easily readable and understandable by the general public.
- c. Financial Institutions should be legally responsible for all statements made in advertising and sales materials.

For disclosure and sales practices, one of the main policy issues relates to misleading and comparative advertisement.

No advertisement by a financial institution should describe either an actual or future deposit or interest rate payable on a deposit as being guaranteed or partially guaranteed unless:

- a. There is a legally enforceable agreement between the bank and a third party who or which has provided such a guarantee.
- b. The advertisement states:
  - (i) the extent of the guarantee;
  - (ii) the name and address of the party providing the guarantee; and
  - (iii) in the event that that party is in any way connected to the bank, the precise nature of that connection.

The word “guarantee” can be a persuasive element when it comes to “returns” on investment.

There is a tendency for the term to be used rather loosely. Furthermore, the actual terms of a guarantee can be legalistic and complicated for the average customer. Thus, advertisements should ensure that the key fact of the guarantee is clearly disclosed to the public to enable the consumer to make an informed decision about the usefulness or relevance of the guarantee.

## 4.9 Professional Competence

- a. In order to avoid any misrepresentation of fact to a consumer, any bank staff member who deals directly with consumers, or who prepares bank advertisements (or other external distribution channels) or who markets any service or product of the bank should be familiar with the legislative, regulatory and code of conduct guidance requirements relevant to his or her work, as well as with the details of any product or service of the bank which he or she sells or promotes.
- b. Regulators and industry associations should

collaborate to establish and administer minimum competency requirements for any bank staff member who:

- (a) deals directly with consumers,
- (b) prepares any Key Fact Document or any advertisement for the bank, or
- (c) markets the bank’s services and products.

The standard of service delivered depends not only on the product but also on the knowledge and technical know-how of the individual delivering the service. Financial products are becoming increasingly complicated, products are overlapping, and the delineation between banking and non-banking products is no longer clear. Thus, it is important that consumers fully understand these complex products before buying them. Most of the time, the industry is expected to ensure that the employees delivering the services are fully knowledgeable about the product and able to explain the nuances to the consumer. In most cases, the industry sets the standard through certification processes.

## 5.0 Customer Account Handling and Maintenance

### 5.1 Statements

- a. Unless a bank receives a customer’s prior signed authorization to the contrary, the bank should issue, and provide the customer with, a monthly statement regarding every account the bank operates for the customer. Each such statement should:
  - i) Set out all transactions concerning the account during the period covered by the statement; and
  - ii) Provide details of the interest rate(s) applied to the account during the period covered by the statement.
- b. Each credit card statement should set out the minimum payment required and the total interest cost that will accrue, if the cardholder makes only the required minimum payment.
- c. Each mortgage or other loan account statement should clearly indicate the amount paid during the period covered by the statement, the total

- outstanding amount still owing, the allocation of payment to the principal and interest and, if applicable, the up-to-date accrual of taxes paid.
- d. A bank should notify a customer of long periods of inactivity of any account of the customer and provide a reasonable final notice in writing to the customer if the funds are to be transferred to the government.
  - e. When an investor signs up for paperless statements, such statements should be in an easy-to-read and readily understandable format.

## 5.2 Notification of Changes in Interest Rates and Non-interest Charges

A customer of a bank should be notified in writing by the bank of any change in:

- a. The interest rate to be paid or charged on any account of the customer as soon as practicably possible;
- b. A non-interest charge on any account of the customer a reasonable period in advance of the effective date of the change.
- c. The customer should have the right to exit the contract, if the revised terms are not acceptable to the customer.

## 5.3 Customer Records

A financial institution should maintain up-to-date records in respect of each customer of the bank that contain the following:

- a. A copy of all documents required to identify the customer and provide the customer's profile;
- b. The customer's address, telephone number and all other customer contact details;
- c. Any information or document in connection with the customer that has been prepared in compliance with any statute, regulation or code;
- d. Details of all products and services provided by the bank to the customer;
- e. A copy of correspondence from the customer to the bank and vice-versa and details of any other information provided to the customer in relation to any product or service offered or provided to the

- customer;
- f. All documents and applications of the bank completed, signed and submitted to the bank by the customer;
- g. A copy of all original documents submitted by the customer in support of an application by the customer for the provision of a product or service by the bank
- h. Any other relevant information concerning the customer.

A law or regulation should provide the minimum permissible period for retaining all such records and, throughout this period, the customer should be provided ready free access to all such records.

While the above can be assumed in many countries, rudimentary banking systems do not keep comprehensive information. The list may sound prescriptive but it is regarded as the minimum requirement to ensure sufficient information is kept for the purposes of ensuring customer protection.

## 5.4 Electronic Fund Transfers and Remittances

- a. There should be clear rules on the rights, liabilities and responsibilities of the parties in electronic fund transfers.
- b. Banks should provide information on prices and service features of electronic fund transfers and remittances in easily accessible and understandable forms. As far as possible, this information should include:
  - (i) the total price (e.g. fees at both ends, foreign exchange rates and other costs);
  - (ii) the time it will take the funds to reach the receiver;
  - (iii) the locations of the access points for sender and receiver
  - (iv) terms and conditions of the fund transfers services to the customer.
- c. To ensure full transparency, it should be clear to the sender if the price or other aspects of the service vary according to different circumstances, and the bank should disclose the information without imposing requirements on the consumer.

- d. There should be legal provision requiring documentation of electronic fund transfers.
- e. There should be clear, publicly available and easily applicable procedures in cases of errors and frauds.
- f. Authorities should encourage efforts to enable end users to better understand the market for electronic fund transfers and remittances, such as providing comparative price information or undertaking educational campaigns.

## 6.0 Debt Recovery

- a. No financial institution, agent of a bank or third party should employ any abusive debt collection practice against any customer of the bank, including the use of any false statement, any unfair practice or the giving of false credit information to others.
- b. The type of debt that can be collected on behalf of a bank, the person who can collect any such debt and the manner in which that debt can be collected should be indicated to the customer of the bank when the credit agreement giving rise to the debt is entered into between the bank and the customer.
- c. No debt collector should contact any third party about a bank customer's debt without informing that party of:
  - (i) the debt collector's right to do so; and
  - (ii) the type of information that the debt collector is seeking.

While countries rely on the sanctity of the contract and courts to uphold the right of borrower and prevent abuse by lender, some countries deal with this issue either through the law, directives of regulators, or advisory of the Consumer Protection Agency.

## 7.0 Privacy and Data Protection

### 7.1 Confidentiality and Security of Customers' Information

Customers have a right to expect that their financial transactions are kept confidential. The law should require

banks to ensure that they protect the confidentiality and security of personal data, against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access.

The confidentiality of identifiable personal information is protected under several international Statutes both international and national.

### 7.2 Sharing Customer's Information

- a. A bank should inform its customer in writing:
  - (i) of any third-party dealing for which the bank should share information regarding any account of the customer, such as any legal enquiry by a credit bureau; and
  - (ii) how it will use and share the customer's personal information.
- b. No bank shall sell or share account or personal information regarding a customer of the bank to or with any party not affiliated with the bank for the purpose of telemarketing or direct mail marketing.
- c. The law should allow a customer of a bank to stop or "opt out" of the sharing by the bank of certain information regarding the customer and, prior to any such sharing of information for the first time, every bank should be required to inform each of its customers in writing of his or her rights in this respect.
- d. The law should prohibit the disclosure of any information of a banking customer by third parties.

### 7.3 Permitted Disclosures

The law should:

- a. State specific rules and procedures concerning the release to any government authority of the records of any customer of a bank;
- b. State what the government authority may and may not do with any such records;
- c. State what exceptions, if any, apply to these rules and procedures;
- d. Provide penalties for the bank and any government authority for any breach of these rules and procedures.

Each contractual party has to be informed about the retention periods before concluding the contract in

plain and understandable language. This holds for the consumer (and borrower) as well as all co-borrowers.

## 8.0. Dispute Resolution Mechanisms

### 8.1 Internal Complaints Procedure

- a. Every bank should have in place a written complaints procedure for the proper handling of any complaint from a customer, with a summary of this procedure forming part of the bank's
- b. Within a short period of time following the date a bank receives a complaint, it should:
  - (i) Acknowledge in writing to the customer/complainant the fact of its receipt of the complaint; and
  - (ii) provide the complainant with the name of one or more individuals appointed by the bank to deal with the complaint until either the complaint is resolved or cannot be processed further within the bank.
- c. The bank should provide the complainant with a regular written update on the progress of the investigation of the complaint at short intervals of time.
- d. Within a few business days of its completion of the investigation of the complaint, the bank should inform the customer/complainant in writing of the outcome of the investigation and, where applicable, explain the terms of any offer or settlement being made to the customer/ complainant.
- e. When a bank receives a verbal complaint, it should offer the customer/complainant the opportunity to have the complaint treated by the bank as a written complaint in accordance with the above. A bank may not require, however, that a complaint be in writing.
- f. A bank should maintain an up-to-date record of all complaints it has received that are subject to the complaints procedure. For each complaint, this record should contain the details of the complainant, the nature of the complaint, a copy of the bank's response(s), a copy of all other relevant correspondence or records, the action taken to

resolve the complaint and whether resolution was achieved and, if so, on what basis. The bank should make these records available for review by the bank supervisor or regulator as and when requested.

Many banking supervisors deal with customer complaints either through the Code of Banking Practices or through their general supervisory power. For instance, the supervisors in Asia leave complaint forms in bank branches, so that the public can send the complaint directly to the banking supervisors. Some supervisors have a special unit dedicated to deal with consumer complaints against supervised financial institutions, even if the objectives of the banking supervisor do not explicitly mention consumer protection as a mandate.

### 8.2 Formal Dispute Settlement Mechanisms

- a. A system should be in place that allows a customer of a bank to seek affordable and efficient recourse to a third-party banking ombudsman or equivalent institution, in the event the customer's complaint is not resolved to his or her satisfaction in accordance with the procedures
- b. The existence of the banking ombudsman or equivalent institution, and the procedures before this institution, should be set forth in every bank's Terms and conditions.
- c. The banking ombudsman or equivalent institution should be impartial and act independently from the appointing authority, the banking industry and the specific bank with which the complaint has been lodged.
- d. The decision of the banking ombudsman or equivalent institution should be binding upon on the bank with which the complaint has been lodged and this fact, as well as the mechanism to ensure the enforcement of such a decision, should be set forth in every bank's Terms and Conditions.

Few customers have the knowledge to realize that their rights have been infringed and even if they realize, they have very few avenues to pursue their claims. Thus, banks should be mandated to have an internal dispute resolution or complaint handling mechanism, which

provides a first level dispute resolution mechanism. Unless there are voluntary consumer protection associations that have the resources and skills to assist customers with their complaints or legal actions against banks, consumers do not have many venues to seek redress. The absence of small claims court, as is the case in many countries, prevents an affordable means for the average customer to bring action against sellers, service providers and corporations. Thus, it is not surprising that banking systems around the world seek to establish an Ombudsman that is regarded as a fundamental requirement for sound consumer protection. An Ombudsman can also identify complaints that are few in number but high in importance for consumer confidence in the financial sector — and take effective action.

Without clear codes of banking practices and standardized contracts, it becomes difficult for the Ombudsman to effectively mediate and ameliorate the problems faced by bank customers. In many countries, the Code of Banking Practices (that is binding on all banks) forms the basis for the Ombudsman's jurisdiction and guidance.

## 9.0. Consumer Empowerment

### 9.1 Financial Education in Schools

Information about basic financial products, such as current and deposit accounts, leasing contracts, term loans and mortgages and credit cards, as well as how to calculate and compare interest rates, should be taught in schools. Schools should also teach basic financial concepts such as risk vs. return, long-term financial planning and consequences of over indebtedness.

Financial education has always been important for consumers in helping them budget and manage their income, save and invest efficiently, and avoid becoming victims of fraud. As financial markets become increasingly sophisticated and households assume more responsibility and risk for financial decisions, financial education is increasingly necessary for individuals, not only to ensure their own financial well-being but also the smooth functioning of financial markets and the economy.

## 10.0 Conclusion

Consumer protection in the financial sector is key for a demand driven economy. It include adherence to industry consumer codes of practice, consumer financial education, disclosure requirements etc. Implementation of consumer protection should involve various stakeholders inclusive of business Associations. Consumer protection is NOT a one player's cup of tea, but the result of an organic, interdependent effort of various players in the financial sector.







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