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***Good Practices
for Consumer Protection and
Financial Literacy
in Europe and Central Asia:
A Diagnostic Tool***

October 2008



THE WORLD BANK

Private and Financial Sector Development Department

Europe and Central Asia Region

Washington, DC

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Good Practices for Consumer Protection and Financial Literacy in Europe and Central Asia: A Diagnostic Tool is a product of the staff of the International Bank for Reconstruction and Development/ The World Bank. The findings, interpretations, and conclusions expressed herein do not necessarily reflect the views of the Executive Directors of the World Bank or the governments they represent.

Foreword

Each year the global economy adds an estimated 150 million new consumers in financial services. Most are in developing countries, where consumer protection and financial literacy are still in their infancy. Particularly in the 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 concrete and effective ways of 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, 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 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.

We are pleased to provide Good Practices for Consumer Protection and Financial Literacy in Europe and Central Asia: A Diagnostic Tool. The Good Practices were developed at the request of government authorities in the Europe and Central Asia Region. Nine countries have asked the World Bank to prepare diagnostic reviews of consumer protection and financial literacy frameworks and practices for their countries. To ensure consistency across countries, the World Bank developed an initial set of good practices using international experience as a guide. In the Consultative Draft, the Good Practices have been summarized and accompanied by annotations of the experiences that have been drawn upon. The Good Practices remain, however, a "work-in-progress." The Consultative Draft is being published in order to stimulate discussion on what constitute good practices in consumer protection and financial literacy and to obtain feedback and input from regulators and other stakeholders worldwide. Comments and feedback would be appreciated.

The Consultative Draft is available at www.worldbank.org/eca/consumerprotection. Comments and feedback should be provided to consumerprotection@worldbank.org or Sue Rutledge at srutledge@worldbank.org

Acronyms & Abbreviations

AML	Anti-money laundering
ANEC	European Association for the Co-ordination of Consumer Representation in Standardization
APEC	Asia Pacific Economic Cooperation
APY	Annual percentage yield
B2C	Business to consumer
BEUC	Bureau Européen des Unions des Consommateurs (European Consumers' Organization)
BIS	Bank for International Settlements
CESR	Committee of European Securities Regulators
CFT	Combating the financing of terrorism
CGAP	Consultative Group to Assist the Poor
CIU	Collective Investment Undertaking
COE	Council of Europe
EC	European Commission
ECJ	European Court of Justice
ERISA	US Employee Retirement Income Security Act
ETS	European Treaty Series
EU	European Union
FATF	Financial Action Task Force
FINRA	US Financial Industry Regulatory Authority
FSA	UK Financial Services Authority
FSAP	Financial Sector Assessment Program
FTC	US Federal Trade Commission
IAIS	International Association of Insurance Supervisors
ICO	UK Information Commissioner's Office
ICP	Insurance Core Principle
IDD	Initial disclosure document
IFC	International Finance Corporation
IFRS	International Financial Reporting Standards
IOPS	International Organisation of Pensions Supervisors
IOSCO	International Organization of Securities Commissions
KYC	Know Your Customer
LIBOR	London Inter-bank Offered Rate
MiFID	Markets in Financial Instruments Directive
NAIC	US National Association of Insurance Commissioners
NASD	US National Association of Securities Dealers
NPS	National Payments System
OECD	Organisation for Economic Co-operation and Development
SEC	US Securities and Exchange Commission
SME	Small and medium enterprises
SRO	Self-regulatory organization
TILA	US Truth in Lending Act
UK	United Kingdom
UN	United Nations
US	United States of America
USC	United States Code
WHCRI	Western Hemisphere Credit and Loan Reporting Initiative
WBG	World Bank Group

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Introduction

Each year the global economy adds an estimated 150 million new consumers in financial services. Most are in developing countries, where consumer protection and financial literacy are still in their infancy. Particularly in the countries that have moved from central planning to market economies, protecting the interests of consumers has become a prerequisite for sound and competitive financial markets.

Weak consumer protection and financial literacy affect both middle and low-income countries. Emerging countries worldwide have seen rapid development of their financial sectors over the last ten years and rapid growth of income has provided consumers with more resources to invest. Increased competition among financial firms, combined with improvements in their technology and infrastructure, have resulted in highly complex financial products sold to the public. However the public in many emerging markets (particularly the post-transition countries of Europe and Central Asia) lacks a history of using sophisticated financial products. For many first-time financial consumers, no member of the extended family has over the previous 60 years entered into a long-term financial contract such as a home mortgage. The growth of financial literacy significantly lags the growth of available investment resources (or credit options), widening the gulf between the complexity of financial products and consumers' ability to understand what they are buying. Especially in low-income countries, with many first-time financial consumers, technology is also changing the types of protection needed by financial consumers. Where more than half the population has no bank account,¹ financial services delivered via cellular telephones have filled a critical need for consumers but such services raise important issues of consumer disclosure and education. However even in well-developed markets, weak consumer protection and financial literacy can render households vulnerable to unfair and abusive practices by financial institutions—as well as financial frauds and scams.

Recent developments in financial markets highlight the importance of consumer protection and financial literacy for the long-term health of the financial sector. Throughout Europe, the US and elsewhere, the rapid growth of household lending over the last decade has been accompanied by an increase in the number of households that had difficulty in understanding the risks and obligations that they assumed—or the full range of choices available.² In the US mortgage markets, complex financial products, (such a hybrid adjustable-rate mortgages) were sold to borrowers, including those with weak credit histories. In today's deeply interconnected financial markets, the move towards securitization of such household credit highlights the importance of consumer protection and financial literacy (as well as risk management) in minimizing systematic risk of the financial sector.³

¹ See World Bank, *Finance for All? Policies and Pitfalls in Expanding Access, 2008* for a summary of the difficulties of access to financial services in low-income countries..

² See California Budget Report, *Locked Out 2008: The Housing Boom and Beyond, 2008* (Available at http://www.cbp.org/pdfs/2008/080212_LockedoutReport.pdf). As many as half of all subprime residential mortgages borrowers in the US had high enough credit scores to qualify for standard lower-cost bank mortgages. See also Remarks by Federal Reserve Board Governor Edward M. Gramlich at the Financial Services Roundtable Annual Housing Policy Meeting, Chicago, Illinois May 21, 2004 (available at <http://www.federalreserve.gov/boarddocs/speeches/2004/20040521/default.htm>)

³ Remarks by Vice Chairman Martin J. Gruenberg, United States Federal Deposit Insurance Corporation at WBG Global Seminar on Consumer Protection and Financial Literacy, Washington, D.C., September 2008

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 this market failure. Financial institutions know their products well but individual retail consumers may find it difficult or costly to obtain sufficient information on their financial purchases.⁴ In addition, complex financial products can be difficult to assess, even when all relevant information is disclosed. Imbalances are also present in cases where:

- *Transactions are rare* (for example, when taking a mortgage on a personal residence),
- *Entry or exit costs are low* (such as for financial intermediaries), thus allowing disreputable firms to emerge, or
- *The payoff to the consumer is postponed or very high* (for example, in taking a "negative amortization" mortgage at below-market interest rates where the principal amount increases rather than declines over time).⁵ Similarly for many long-term investment products, performance cannot be evaluated for many years after the product was bought.

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. In its April 2008 report, the Joint Forum of the Basel Committee on Banking Supervision, the International Organization of Securities Commission and the International Association of Insurance Supervisors identifies three key risks 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; and (3) contagion risk, if the problems of one financial institution (or

⁴ Analysts often refer to asymmetric information and the "lemon problem." The academic literature on asymmetric information notes that with imperfect information on the part of lenders—or prospective car buyers— borrowers with weak repayment prospects—or sellers of low-quality cars ("lemons")—crowd out everyone else from the market. See George A. Akerlof, "'The Market for Lemons': Quality Uncertainty and the Market Mechanism", *Quarterly Journal of Economics*, 1970. This is a somewhat different issue from that of borrowers lacking sufficient information to make wise and well-informed financial decisions.

⁵ In their 1998 article, "Information-Based Principles for Rethinking Consumer Protection Policy," Hadfield, Howse and Trebilcock argue that government regulation of consumer products is warranted in a number of limited cases, including those noted above.

type of financial product) spread across the financial sector.⁶ Effective consumer protection can help ensure that the actions of financial firms do not make them subject to criticisms of mis-selling. 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 became evident during the insurance and superannuation scandals in the United Kingdom and Australia, resulting in extensive studies on recommendations for regulatory reform.⁷ The 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. As noted by Dani Rodrik (2007), “Markets will not work on their own. You need all the institutions that regulate markets, stabilize markets, that compensate to losers and provide the safety nets, without which markets can neither be legitimate or, for that matter, efficient, if you don’t have the appropriate regulatory frameworks.”⁸ Other analysts argue differently. Mark Armstrong (2008) notes that in most competitive markets, competition policies are sufficient to ensure that firms succeed by providing consumers with the products and services they want—and government intervention is not needed. However even Armstrong argues 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.⁹

Consideration needs to be given to ensuring that market conduct regulation is not too heavy. Government intervention should only be considered when it is both feasible and cost-effective to do so. 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.

Self-regulation can also help to improve market conduct. In developed countries, self-regulation is often an effective form of alternative regulation since the guidelines set by professional associations 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.¹⁰

⁶ Joint Forum of Basel Committee on Banking Supervision, International Organization of Securities Commission and International Association of Insurance Supervisors, *Customer suitability in the retail sale of financial products and services*, April 2008

⁷ For additional discussion of scandals, see the Case Studies in the April 2008 report of the Joint Forum of Basel Committee on Banking Supervision, International Organization of Securities Commission and International Association of Insurance Supervisors, *Customer suitability in the retail sale of financial products and services*, April 2008. See also Australian Government Publishing Service, *The Financial System Inquiry Final Report* (“Wallis Report”), March 1997 available at <http://fsi.treasury.gov.au>

⁸ See PBS NewsHour, Graduate Students Recount Experiences with Globalization, June 1, 2007 (available at <http://www.pbs.org/newshour/bb/business/jan-june07/globalization-06-01.html>)

⁹ Mark Armstrong, “Interactions between Competition and Consumer Policy,” *Competition Policy International*, Volume 4, Number 1, Spring 2008

¹⁰ One effective measure of enforcement is to require financial institutions to prepare an annual report—and have that report made available to the public.

The regulatory response needs to be proportionate to the situation at hand—and that proportionality can best be evaluated on the basis of cost-benefit analysis. The appropriate regulatory solutions are thus likely to vary from one country to another and will depend on the country circumstances, including the nature and extent of market failure in that country. Furthermore in many low-income 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. Recently the risk of too little oversight has become evident following insurance and superannuation scandals in the United Kingdom and Australia where the political response has been to over-compensate with heavy regulation.¹¹ The right levels of consumer protection are needed to ensure that financial markets are both efficient and transparent.

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. These biases include mistaken beliefs where consumers assume that interest rate charges or penalties will not apply to them: they are over-optimistic about their financial futures and thus unable to accurately forecast their future financial status.¹² 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.¹³ Other consumers fall victim to projection bias, that is, the prediction of personal preferences into the future.¹⁴ 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. The research points to the 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.

The report starts from the perspective that a financial sector should provide consumers with:

- **Transparency** by providing full, plain, adequate and comparable information about the prices, terms and conditions (and inherent risks) of financial products and services;
- **Choice** by ensuing fair, non-coercive and reasonable practices in the selling of financial products and services and collection of payments;

¹¹ For additional discussion of scandals, see the Case Studies in the April 2008 report of the Joint Forum noted above.

¹² See S. Brown, G. Garino, K. Taylor and S.W. Price, *Debt and financial expectations: An individual and household level analysis*, Working Paper, University of Leicester, 2003. See also N. Weinstein, "Unrealistic Optimism About Future Life Events", *Journal of Personality and Social Psychology* 39(5): 806-820, 1980.

¹³ See Lewis Mandell, *Personal Finance Survey of High School Seniors, The Jumpstart Coalition for Personal Financial Literacy*, Washington, DC, 2004. Also see ANZ Banking Group, *ANZ Survey of Adult Financial Literacy in Australia, Melbourne*, 2003.

¹⁴ See G. Loewenstein, T. O'Donoghue and M. Rabin, "Projection Bias in Predicting Future Utility," *Quarterly Journal of Economics* 118 (4): 1209-1248, 2003.

- **Redress** by providing inexpensive and speedy mechanisms to address complaints and resolve disputes; and
- **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 although 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. By contrast, improving financial literacy is a long-term process for which little is clearly understood as to what works (and what does not) in improving financial behavior.¹⁵ Techniques of delivering financial education have been well-tested in the US, Europe and elsewhere over the last 30 years¹⁶ but their impact on levels of financial literacy is still unclear. Yet more unclear is the impact on consumer behavior. Taken together, financial literacy and consumer behavior determine 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 in developing countries 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. Market conduct standards should complement—but not substitute for—rules on prudential supervision. Such a set of guidelines would be significant for any public debate on national or international level since to date the discussion has suffered from the absence of a set of recognized guidelines against which existing rules or proposed changes could be measured. This has often led policymakers to focus on only a few of many consumer protection issues while neglecting to close gaps in other areas. Well-developed and accepted guidelines are also very important tools when developing benchmarks for surveys of consumer protection and financial literacy levels.

¹⁵ For a summary of academic research on the limited effectiveness of financial education in the US, see Shawn Cole and Gauri Kartini Shastry, *If You Are So Smart, Why Aren't You Rich? The Effects of Education, Financial Literacy, and Cognitive Ability on Financial Market Participation*, October 2007. Other analysts go further and argue that financial education fails to improve consumer decision-making and may even be harmful by developing consumer over-confidence. See Lauren E. Willis, "Against Financial Literacy Education", *University of Pennsylvania Law School, Public Law and Legal Theory Research Paper Series* Research Paper No. #08-10, forthcoming November 2008.

¹⁶ For a summary of programs see Shaun Mundy, *Financial Education Programmes in Schools, Universities and Colleges: Analysis of Selected Current Programmes and Recommendations for Best Practices*, OECD Draft Report, forthcoming 2008.

Several initiatives are underway worldwide to develop useful standards or benchmarks on consumer protection in financial services. The European Commission is developing a "scorecard" on financial consumer protection and in June 2008, the European Parliament released its draft report on measures to increase consumer education and awareness regarding credit.¹⁷ In July 2005, the Council of the Organisation for Economic Co-operation and Development (OECD) distributed a set of principles and good practices for financial education and awareness,¹⁸ followed by the 2008 release of financial education and awareness good practices for insurance and private pensions. Similar work has been initiated on financial education for consumer credit, including mortgages. The Good Practices in the Consultative Draft are intended to support those initiatives.

The Consultative Draft proposes a set of key Good Practices for feedback and comment by regulators and other stakeholders in the international community. The Good Practices were developed as a diagnostic tool to help project teams in preparing country-based diagnostic reviews, as requested by government authorities in the Europe and Central Asia Region. In preparing the Consultative Draft of Good Practices and releasing the Draft for public feedback and comment, it is hoped that the Draft will help stimulate a discussion of key issues for consumer protection in financial services—and that the Consultative Draft will be widely discussed, with inputs and feedback provided to further refine the Good Practices. In particular, comments are requested from regulators and other government agencies, professional associations, consumer protection associations and other interested parties. As additional country-based diagnostic reviews are conducted in other regions of the world, particularly in low-income countries, the Good Practices will be revised to reflect the new insights and adapted as necessary. It is anticipated that the Good Practices will later be distributed as a final document.

The Good Practices rely on the experiences of developed countries but also incorporate experience in emerging economies. Over the last 30 years, most work on financial consumer protection has been undertaken in the industrialized countries, although recent work in other countries (such as Malaysia, Mexico and South Africa) has begun to emerge. The experiences of developed markets may be particularly helpful to regulators in emerging markets as many financial institutions in developing countries are owned by financial institutions from developed countries. The quick transfer of know-how of financial institutions regarding market conduct and understanding of issues (and effects of applied solutions) may significantly help national authorities in developing effective answers to issues they are dealing with. However as effective approaches emerge from developing countries, they will be incorporated into the Good Practices.

The Good Practices were developed using existing international benchmarks and other accepted good practices in the financial sector. The Good Practices are based on accepted international benchmarks such as the principles released by the Basel Committee, the International Organization of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors (IAIS). The Good Practices take the provisions related to how financial institutions interact with their retail customers and pull them together in one report. Where no such relevant principles exist, the Good Practices use internationally generally accepted principles of good practices for financial institutions when dealing with retail customers.

¹⁷ European Parliament, *Draft Report on protecting the consumer: improving consumer education and awareness as regards credit* (2007/2288 (INI)), June 5, 2008

¹⁸ OECD, *Recommendation on Principles and Good Practices for Financial Education and Awareness*, Recommendation of the OECD Council, July 2005

The Good Practices provide a useful diagnostic tool for analyzing a country's consumer protection—and helping government authorities take a proactive role in reform of their retail financial markets. Analysis of a country's laws, regulations and common business practices compared to the Good Practices template provides a systematic analysis of the issues—as well as a menu of policy options for consideration by policy-makers. Such insights can help government authorities become proactive in their regulatory and supervisory activities, rather than reacting to the actions and innovations of financial institutions as they arise. Some policy tools will have an immediate positive impact. One example is the preparation of a Key Facts Statement, for which the professional associations can be encouraged to develop a standardized format, subject to review by the supervisory agency. Providing information to consumers in a clear and comparable format is a formidable weapon, empowering consumers to shop around for a good price and service quality on financial products. Other measures, such as establishing an independent statutory ombudsman, take months and perhaps years to prepare, discuss and evaluate. Providing consumers with an inexpensive and easy method of redress for disputes over small amounts of money is also a powerful weapon in the hands of consumers—but it is one that requires careful consideration and preparation.

Distinguishing between unsophisticated retail and highly sophisticated corporate customers is important when designing successful consumer protection. Transactions with well-informed financial and corporate institutions are not subject to many of the problems that can potentially harm retail consumers. The focus of consumer protection is on the relationship and interaction between a retail customer and a financial institution (or its agent or other intermediary). The report uses the definition of the retail market as those economic transactions made between economic operators and final consumers. The retail market is sometimes called the business-to-consumer (or "B2C") market. This market does not include businesses—however small—in their role as purchasers of financial services. Since the Good Practices relate only to the relationship between financial institutions and their customers, the Good Practices do not cover areas such as personal insolvencies. Nor do they cover collateral registries.

The Good Practices are not intended to be normative guidelines. The Good Practices summarize international good approaches to consumer protection and financial literacy but they are not meant to set minimum standards to be met by all countries. The Good Practices are to be used as a diagnostic tool, which provide a range of possible options for consideration by policy-makers on ways to empower financial consumers. The Good Practices are applicable to both middle-income and low-income countries. For middle-income countries, the Good Practices provide a summary of lessons learned from international experience, all of which may be suitable. For low-income countries, the Good Practices provide a range of options from which supervisors may select those that are the most applicable, depending on the level of economic development. At a minimum, the Good Practices provide an early warning signal for regulators in low-income countries, helping them to anticipate the consumer protection issues that will likely arise with future development of the financial sector.

Good Practices for various segments of the financial sector and Checklist of Good Practices across the financial sector have been prepared. The detailed Good Practices for each segment—banking, securities, insurance, and non-bank credit institutions—are presented with annotations to identify the basis for the proposed Good Practices. Good Practices were prepared for the different parts of the financial sector, since most laws and regulatory agencies are specific to different types of financial institutions. However there is also merit in taking a cross-sectoral approach looking at a general set of Good Practices across the financial sector. The cross-sectoral approach is likely to become increasingly significant as more sophisticated financial products become available and the consumer well-being may become threatened by regulatory arbitrage in

packaging the products. One example where common rules would significantly benefit the consumer is unit-linked insurance, which often has limited disclosure requirements compared to strict disclosure for investment funds. Similarly the same information should be provided and the same rules applied for mortgages and mortgage alternatives, such as building savings loans or specific consumer credit related to building or renovating. The checklist below provides an initial set of general Good Practices across financial sectors.

Checklist of Good Practices

Consumer Protection Institutions

- √ The law 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.
- √ 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.
- √ A principles-based code of conduct 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.
- √ 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.
- √ 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.

Disclosure and Sales Practices

- √ 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.
- √ For all financial products, consumers should receive a single-page Key Facts Statement, 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.
- √ Before making recommendations, financial institutions should gather sufficient information from the consumer to ensure that the product or service is appropriate to that consumer.
- √ 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.

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- √ 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.
- √ Staff of financial institutions who deal directly with consumers should receive adequate training, suitable for the complexity of the products or services being sold.
- √ 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.

Customer Account Handling and Maintenance

- √ 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.
- √ Customers should be individually notified of changes in interest rates, fees, and charges as soon as practicably possible.
- √ Financial institutions should maintain up-to-date customer records and provide ready and free access to customers to their records.
- √ Clearing of customer transactions should be based on clear statutory and regulatory rules—or be subject to effective self-regulatory arrangements.
- √ No financial institution—or third party—should employ abusive collection practices against customers of financial institutions.

Privacy and Data Protection

- √ The law should set out basic rules of information-sharing among participants of the credit reporting system, including credit registers, reporting institutions and users of credit reports.
- √ The law should 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.
- √ The law should specify 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.
- √ 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.

- √ Credit bureaus should be subject to oversight by the appropriate government (or non-government) authority to ensure that they comply with consumer protection provisions of the law, including those related to consumer data.

Dispute Resolution Mechanisms

- √ Financial institutions should have clear procedures for handling customer complaints. Financial institutions should maintain up-to-date records of all complaints received.
- √ 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.
- √ Statistics of customer complaints, including those related to breaches of the codes of conduct, should be periodically compiled and published.
- √ 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.

Guarantee and Compensation Schemes

- √ The law should ensure that the regulator can take prompt corrective action in the event of distress at a financial institution.
- √ 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.
- √ 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.

Financial Education

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

- √ Government and state agencies should consult with financial institutions, consumers and associations to develop proposals that meet consumer needs and expectations.
- √ The financial capability of consumers should be measured periodically through broad-based surveys that are updated from time to time.

Competition

- √ Financial regulators and competition authorities should be required to consult with one another.
- √ Competition policy in financial services should consider the impact of competition issues on consumer welfare, and especially limits on choice.
- √ Competition authorities should conduct and publish periodic assessments of competition in retail financial institutions and make recommendations on how competition in retail financial institutions can be enhanced.

Background on Methodology and Future Work

The Good Practices were initially developed at the request of the government authorities of the Czech Republic. For the initial pilot review of consumer protection in financial services, the Czech authorities inquired into which specific international benchmarks had been used—and how the Czech Republic fared on each benchmark. It was clear that for subsequent reviews, an explicit description of the lessons learned from international experience (i.e. “Good Practices”) would be needed. Thus, a set of Good Practices was assembled for the Slovakia Review and was subsequently revised for the Azerbaijan, Romania, Croatia and Russia Reviews.¹⁹ The Good Practices proved to be a very useful tool in preparing a systematic review of consumer protection in different parts of the financial sector.

The Good Practices were prepared based on international approaches in both developed and developing countries. While the Good Practices were developed for use in European countries, the practices relied on international experience as a guide. The Good Practices incorporate the provisions of the European Union (EU) Directives related to consumer protection and the reports of European financial regulatory and supervisory agencies but they are not limited to European references. Other sources include laws and regulations in the United States, such as those issued by the Federal Trade Commission, the Securities and Exchange Commission and other US state, federal and self-regulatory agencies that have developed laws, rules and guidelines to protect financial consumers. Insights were also provided by laws, regulations and codes of business conduct in Australia, Canada, France, Ireland, Malaysia, Mexico, Peru, South Africa, the United Kingdom and other Member States of the EU. In addition, numerous international associations for banking, insurance and other segments of the financial sector have prepared codes of conduct that provided useful guidance for the Good Practices on consumer protection and financial literacy. The 2003 OECD Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders and the 1999 United Nations Guidelines for Consumer Protection have also been useful references regarding general consumer

¹⁹ The published reviews on Consumer Protection in Financial Services for Slovakia and the Czech Republic are available at www.worldbank.org/eca/consumerprotection

protection not related to the financial sector. The OECD has also prepared a set of draft Good Practices for financial education for pensions and insurance, supplementing the recommendations presented in its 2005 global review of financial education programs.²⁰

Good practices for different segments of the financial sector were prepared—banking, securities, insurance and non-bank credit institutions. Eight issues are considered as part of the Good Practices: (1) consumer protection institutions, (2) disclosure and sales practices, (3) customer account handling and maintenance, (4) privacy and data protection, (5) dispute resolution mechanisms, (6) guarantee and compensation schemes, (7) financial education and (8) competition issues in financial services. The list is not exhaustive and has not captured all prevailing services, products and practices of the financial sector but has focused on the key areas related to consumer protection and financial literacy.²¹ The Good Practices focus on actions that can be taken by financial regulators and supervisors, other government authorities, financial institutions and their professional associations, and consumer advocacy organizations.

Additional work is needed in several areas. As global research and experience in consumer protection for private pensions is expanding (including research by the World Bank), more time is needed to build a comprehensive set of Good Practices for this sector. Thus the Good Practices for private pensions are still in the development phase and are presented in Annex I of this report. Annex II provides Good Practices for credit reporting systems, focusing on issues of privacy and data protection. The Good Practices for credit reporting systems will be refined following their application in upcoming country diagnostic reviews. Additional work is also needed on the Good Practices for financial education, as future research provides additional insights into the effectiveness of different types of financial education.

Future country-based reviews might look at additional initiatives. Particularly in low-income countries, it would be useful to look at measures that increase the depth of services for underserved households. This might include, for example, the approach of giving all consumers the right to a minimum-service bank account. Analysis should be made of the impact (and costs and benefits) of such provisions. It also might be helpful to establish some recommendations regarding self-regulatory organizations, their role in consumer protection and education, and their potential role in the supervisory process (in the form of possible co-regulation).

Future diagnostic reviews should include countries in other regions. In particular, the countries of Latin America and East Asia provide valuable experience that would assist in the evolution and refinement of the Good Practices. Also useful would be reviews in low-income countries in order to determine if the Good Practices are equally applicable to low and middle-income countries.

Future work should also include developing tools to help regulators define priorities for choosing among the recommendations. National governments are often well-equipped to

²⁰ See OECD. *Improving Financial Literacy: Analysis of Issues and Policies*. 2005. Available at: http://www.oecd.org/document/28/0,2340,en_2649_201185_35802524_1_1_1_1,00.html

²¹ Consumer protection and financial literacy are also important for other relevant financial services. For example, international standards and best practices for payment and remittance services have already been developed by the World Bank and the Committee on Payment and Settlement Systems of the Bank for International Settlements, i.e. the BIS-World Bank General Principles for International Remittance Services. They have therefore not been included as part of the Consultative Draft. See references at www.worldbank.org/paymentsystems

identify weak points and define what changes should be made to reach a better consumer environment. However when governments are faced with the issue of limited resources, it would be helpful to provide a tool that would allow them to select the most important issues (issues with the best potential for positive impact) to deal with. The impact of defining the standards for consumer protection would be further strengthened by providing tools for risk analysis (in what order the government should deal with the known issues to minimize key risks) and impact assessment (what the expected changes in the financial sector are and when they can be expected to materialize).

Further refinements of the Good Practices should focus on implementation of proposed recommendations and evaluation of their impact, using both quantitative and qualitative analyses. Consumer disclosure of financial products should be regularly tested to verify if consumers can understand it and use the information. The proposal for regular public surveys of financial literacy could be developed further with detailed recommendations of what and how should be measured (the additional benefit of common survey standards being the availability of relatively well comparable data from various countries). Proper survey and monitoring techniques should also be important in defining the key issues to deal with when planning consumer protection changes as well as programs of financial education. Besides quantitative surveys, qualitative monitoring should be in place. Properly designed mystery shopping and analysis of complaints can show areas where consumer protection rules are formally applied but without any real benefit for the consumer, or where some sort of action—regulatory or educational—is needed. Well-gathered and analyzed qualitative data can be a significant argument in discussions between regulators and the financial industry over needed reforms. Furthermore the use of a baseline financial literacy survey, followed by an updated survey after the regulatory or educational changes have been put in place, can provide useful insight into the effectiveness of the measures. Furthermore the use of a baseline financial literacy survey, followed by an updated survey after the regulatory or educational changes have been put in place, can provide useful insight into the effectiveness of the measures.

Global surveys of consumer protection and financial literacy would also be useful. While the Good Practices include useful policy approaches for consideration by regulators and self-regulatory organizations, it would also be helpful to conduct global surveys on consumer protection and financial literacy. In particular, regulators and others would benefit from global surveys of: (1) the legal and regulatory frameworks for financial consumer protection in different countries and (2) the levels of financial literacy and common patterns of financial consumer behavior (financial capability) in different countries. The surveys could serve as a basis for evaluating the impact of various interventions by government and private sector organizations.

I. BANKING SECTOR

Good business relationships between the local commercial banks and the public in general are crucial for the development of the economy. There has to be mutual trust and confidence. In the absence of transparency in pricing, adequate consumer awareness and protection, and dispute resolution mechanisms, banking systems have less efficiency and accessibility.

A proper assessment of the overall banking sector and the environment in which it operates is critical to determine whether some of the principles listed below are relevant for a particular country. These practices have been distilled from various sources and prevailing and accepted practices in countries reputed to have good consumer protection in the banking sector. It is important to note that the practices have been crafted to enable their use in countries with well developed as well as less developed banking systems. To ensure the usefulness of these good practices, a certain degree of generalization and minimum requirement approach has been taken. This approach has been taken to preserve the fundamental rights of a common consumer *vis-à-vis* the banking system and to provide relevance in the context of the concerning country. The treatment and handling of checks (in paper and electronic form) and remittances are important aspects of consumer protection of retail financial consumers. However both best practices and international standards have been developed as part of the General Principles for International Remittance Services. A summary is provided in Annex III.²²

An overview of the main consumer protection legislation and regulation for the banking sector is presented in Table 1.

Table 1. Overview of Consumer Protection Regulation for the Banking Sector

Institution	Laws, Regulations, Directives and Guidelines
BIS – Bank for International Settlements	Basel Committee on Banking Supervision, Core Principles for Effective Banking Supervision, September 1997, revised October 2006 Supervisory Guidance on Dealing with Weak Banks, 2002
BIS-World Bank	General Principles for International Remittance Services, 2007
OECD – Organisation for Economic Cooperation and Development	Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, 1980 Guiding Principles for Regulatory Quality and Performance, 2005 Best Practices for the Formal Exchange of Information Between Competition Authorities in Hard Core Cartel Investigations, 2005 Recommendation of the Council concerning Merger Review, 2005 Recommendation of the Council concerning Structural Separation in Regulated Industries, 2001

²² International standards and best practices for payment and remittance services have been developed by the World Bank and the Committee on Payment and Settlement Systems of the Bank for International Settlements, i.e., the BIS-World Bank General Principles for International Remittance Services. See references at www.worldbank.org/paymentsystems

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	<p>Recommendation of the Council concerning Effective Action against Hard Core Cartels, 1998</p> <p>Recommendation of the Council concerning Co-operation between Member Countries on Anticompetitive Practices affecting International Trade, 1995</p>
APEC – Asia Pacific Economic Cooperation	<p>APEC Privacy Framework, 2005</p> <p>APEC Policy Dialogue on Deposit Insurance: Key Policy Conclusions, 2004</p>
EU – European Union	<p>Directive on Consumer Credit, 1987/102/EEC, as amended</p> <p>Directive on Credit Agreements for Consumers, 2008/48/EC, repealing Directive 87/102/EEC</p> <p>Directive on Consumer Protection in the Indication of the Prices of Products offered to Consumers, 1998/6/EC</p> <p>Directive on Unfair Terms in Consumer Contracts, 1993/13/EEC</p> <p>Directive concerning Unfair Business-to-Consumer Commercial Practices in the Internal Market, 2005/29/EC</p> <p>Directive on Misleading and Comparative Advertising, 2006/114/EEC</p> <p>Directive on the Distance Marketing of Consumer Financial Services, 2002/65/EC</p> <p>Directive on Payment Services in the Internal Market, 2007/64/EC</p> <p>Directive on Deposit Guarantee Schemes, 1994/19/EC</p> <p>Directive on Protection of Consumers in Respect of Distance Contracts, 1997/7/EC</p> <p>Directive on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of such data, 1995/46/EC</p> <p>Recommendation on the Principles for Out-of-court Bodies involved in the Consensual Resolution of Consumer Disputes, 2001/310/EC</p> <p>Communication from the Commission - Sector Inquiry under Art 17 of Regulation 1/2003 on Retail Banking, COM (2007) 33 final</p> <p>Commission Staff Working Document on the Implementation of the Commission Decisions on Standard Contractual Clauses for the Transfer of Personal Data to Third Countries 2001/497/EC and 2002/16/EC, SEC (2006) 95</p> <p>Treaty establishing the European Community (EC Treaty), 1957 as amended</p>
FATF – Financial Action Task Force	<p>Forty Recommendations on Money Laundering, 2003</p> <p>Nine Special Recommendations on Terrorism Financing, 2001 as expanded in 2004</p>
US – United States of America	<p>Truth in Lending Act (TILA), 1968</p> <p>Truth in Savings Act, 1991</p> <p>Check Clearing for the 21st Century Act, 2003</p> <p>Fair Debt Collection Practices Act, 1977 as amended</p> <p>Regulation E – Electronic Fund Transfers, 1966 as amended</p>
UK – United Kingdom	<p>Financial Services and Markets Act, 2000</p> <p>Consumer Credit Act, 1974</p>

A. Consumer Protection Institutions

A.1. Consumer Protection Regime

The law should provide for clear consumer protection rules regarding any regulated financial product or service, and all institutional arrangements should be in place to ensure the thorough, objective, timely and fair implementation and enforcement of all such rules.

- a. Specific statutory provisions need to create an effective regime for the protection of any consumer of a banking product or service.**
- b. Either a general consumer agency or a specialized agency should be responsible for implementing, overseeing and enforcing consumer protection, as well as collecting and analyzing data (including complaints, disputes and inquiries).**
- c. The law should provide and not prohibit a role for the private sector, including voluntary consumer protection organizations and self-regulatory organizations, regarding consumer protection in general and in financial products and services in particular.**

The legal foundation for recognizing, implementing, overseeing and enforcing consumer protection is the primary prerequisite for any legal rights, including consumer rights in banking. Similarly, supervision and enforcement of the protection of consumer affairs in the financial sector is critical for ensuring consumer protection. In this regard, the assessment carried out so far and the experience of countries around the world clearly supports the view that it is necessary to have an agency dedicated to oversee and enforce consumer protection.

The right to form voluntary organizations is taken for granted in many countries. Voluntary consumer associations and self regulatory organizations are important pillars in the consumer protection regime and their role should be recognized in the law, in order to provide them with legitimacy and enable them to obtain funding or gather resources. The role of the private sector is also emphasized to provide legitimacy to banks so that they can participate in activities that would otherwise be considered non- banking activities and to enable them to allocate sufficient funding for financial literacy and related consumer protection activities.

Some major international and national guidelines have been consulted for the development of this good practice. They include: EU Directive on Credit Agreements for Consumers, 2008/48/EC, repealing Directive 87/102/EEC; EU Directive on Consumer Protection in the Indication of the Prices of Products offered to Consumers, 1998/6/EC; EU Directive on the Distance Marketing of Consumer Financial Services, 2002/65/EC; the US Truth in Lending and Truth in Savings Acts, and the UK Financial Services and Markets Act of 2000 (which set up the Financial Services Authority).²³

A.2. Code of Conduct for Banks

- a. There should be a principles-based code of conduct for banks that is devised in consultation with the banking industry and if possible with consumer protection**

²³ In addition, see the OECD Forum, *Balancing Globalization*, 22-23 May 2006 in Paris; and the International Forum on Financial Consumer Protection and Education.

- associations, and is monitored by a statutory agency or an effective self-regulatory agency.**
- b. Every bank, acting alone and together, should publicize and disseminate this statutory code of conduct to the general public through appropriate means.**
 - c. The statutory code should be augmented by voluntary codes of conduct for banks on such matters as facilitating the easy switching of consumers' current accounts and establishing a common terminology in the banking industry for the description of banks' charges, services and products.**

Many banking associations around the world adopt a code of conduct to inform the public of the services and standard of services to be expected from the industry. In most cases, they adopt a list of grand statements that does not mean much to the average customer. Most banking associations operating in the EU have not adopted principles-based code of banking practices. The reason may be that the EU directives on credit and provision of other financial services are detailed enough to ensure good practices. The reality is that consumers' financial literacy and the enforcement capacity of authorities in different countries varies and thus, there are varying standards of consumer protection throughout Europe.

More countries are adopting detailed principles-based codes of conduct that banks are complying with. These codes use plain language and provide commitments that are clear to the average customer. The codes are also widely disseminated and published on the websites of banks, clearly indicating banks' commitments to comply with them.

Codes of banking practices are generally adopted and enforced by middle-income and developed countries, such as Hong Kong, the UK, New Zealand, Canada, South Africa and Australia. These codes are principle-based and their compliance is monitored by the regulatory authority in the case of Hong Kong or subject to the jurisdiction of the ombudsman, in the case of South Africa and Australia.²⁴ The codes generally comprise the following:

- Governing principles and objectives of the code
- The banking ombudsman scheme and mechanisms to deal with complaints
- Good conduct relating to communication, privacy and disclosure
- Product and services
- Issues relating to cheques
- Issues on provision of credit
- Pins and passwords
- Cards, liability and merchant card services
- Internet banking
- Other services such as foreign exchange services
- Statements and account information

²⁴ For examples of codes of banking practices, see:
<https://www.fnb.co.za/legallinks/legal/cobp.html> and
<http://www.bankers.asn.au/Default.aspx?ArticleID=446>

A.3. Balance between Prudential Supervision and Consumer Protection

Where prudential supervision and consumer protection are the responsibility of a single organization, there should be a balance of prudential supervision and consumer protection to ensure that one is not subservient to the other.

As for compliance, oversight of a code of conduct or consumer protection is not generally seen as being part of the responsibilities of banking regulators. The laws contain no reference to “consumer protection” as a function of the banking supervisor or to the concepts of “fairness” and “transparency”. However, it is difficult to say that consumer protection issues should be ignored by regulators. If banks provide a bad or unfair service, this may damage their reputation as well as customer loyalty and confidence. This may also indicate weaknesses in management and internal controls and expose the bank to financial loss, e.g. as a result of “mis-selling” of investment products. Thus, a banking regulator does have an interest in encouraging standards of good banking practice, whereby banks act fairly and reasonably in relation to their customers. The regulator, however, has to determine where to draw the line and in particular has to be careful about intervening in matters that are best dealt with through competitive market forces or resolved through courts. Regulators are very often better placed than a third party to strike the balance and avoid undue regulatory burden on the industry.

A.4. Other Institutional Arrangements

- a. The judicial system should provide credibility to the enforcement of the rules on financial consumer protection.**
- b. The media and consumer associations should play an active role in promoting financial consumer protection.**

Media and consumer associations play an active role in promoting consumer financial protection in many countries. In all European countries, there are consumer associations that deal with financial services.²⁵ If, as in Article 7 of decision No. 20/2004/EC, specific criteria are fulfilled, the organization might be even supported financially by the EU. Furthermore the EC has created several consultative bodies, such as the Financial Services Consumer Group; and permanent committees include representatives of consumer organizations from each of the EU Member States, which are specifically asked to ensure that consumer interests are properly taken into account in the EU financial services policy.

B. Disclosure and Sales Practices

B.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

²⁵ For an overview see: http://ec.europa.eu/consumers/cons_org/associations/index_en.htm

product or service being proposed to or sought by the consumer; and (b) enable the bank to provide a professional service.

This is a basic requirement not only for the delivery of the services but also for the purposes of complying with the Basel Core Principle 18²⁶ issued by the Bank for International Settlements (BIS) and with the standards issued by the Financial Action Task Force (FATF). The FATF is an inter-governmental body created with the purpose of combating money laundering and terrorism financing. The FATF Standards are comprised of Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing.²⁷

B.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.²⁸ The EU Directive on Unfair Terms in Consumer Contracts, 1993/13/EEC has provided guidance with regards to this good practice.

B.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. For a description of cooling-off periods in several EU Member

²⁶ Basel Core Principle 18: *Abuse of financial services*. Supervisors must be satisfied that banks have adequate policies and processes in place, including strict “know-your-customer” rules that promote high ethical and professional standards in the financial sector and prevent the bank from being used, intentionally or unintentionally, for criminal activities.

²⁷See http://www.fatf-gafi.org/document/28/0,3343,en_32250379_32236930_33658140_1_1_1_1,00.html and http://www.fatf-gafi.org/document/9/0,3343,en_32250379_32236920_34032073_1_1_1_1,00.html

²⁸ See FSA’s MoneyMadeClear website:

<http://www.moneymadeclear.fsa.gov.uk/campaigns/Mortgages.html>

States, see the EC's Discussion Paper for the amendment of the Directive 87/102/EEC concerning consumer credit.²⁹

B.4. Linked Products and Bundling Clauses

Whenever a borrower is obliged by a bank to purchase any product, including an insurance policy, as a pre-condition for receiving a loan from the bank, the borrower should be free to choose the provider of the product.

Market survey suggests that in most EU Member States, the majority of banks tie a current account to mortgages, personal loans and SME loans. From a competition point of view, product tying in retail banking may weaken competition. Firstly, tying raises switching costs and therefore is likely to reduce customer mobility. Secondly, by binding customers into buying several products from the same bank, tying is likely to discourage the entry of new players and growth of smaller players. Thirdly, by introducing additional and perhaps unnecessary products into the transaction, tying reduces price transparency and comparability among providers. Product tying by one or more undertakings in a particular Member State may constitute an exclusionary abuse of dominance under Article 82 of the Treaty establishing the European Community (EC Treaty), where such undertakings have a dominant position.

B.5. 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. This is reflected in the OECD Guidelines on the Protection of Privacy's Accountability Principle (Paragraph 14), and the APEC Privacy Framework's Accountability Principle IX, which state that the data controller should be accountable for complying with the measures stated in the OECD and APEC guidelines.

B.6. Regulatory Status Disclosure

In all of its advertising, whether by print, television, radio or otherwise, a bank should disclose: (a) that it is regulated and (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. For example, see the UK Financial Services and Markets Act 2000 or the UK Consumer Credit Act 1974.

²⁹ Available at: http://ec.europa.eu/consumers/cons_int/fin_serv/cons_directive/cons_cred1a_en.pdf

B.7. 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.**

A number of international guidelines have provided the background for this good practice, including EU Directive on Credit Agreements for Consumers 2008/48/EC, EU Directive on Consumer Credit 87/102/EEC; EU Directive concerning Unfair Business-to-Consumer Commercial Practices in the Internal Market 2005/29/EC; EU Directive on Misleading and Comparative Advertising 2006/114/EEC; EU Directive on the Distance Marketing of Consumer Financial Services 2002/65/EC; EU Directive on Protection of Consumers in Respect of Distance Contracts 1997/7/EEC; as well as the US Truth in Lending Act (TILA) and Truth in Savings Act.

The purpose of TILA is to promote the informed use of consumer credit by requiring disclosures about its terms and standardize the manner in which costs associated with borrowing are calculated and disclosed. TILA also gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes.

The US Truth in Savings Act requires the clear and uniform disclosure of rates of interest (annual percentage yield or APY) and fees that are associated with the account, so that the consumer is able to make a meaningful comparison between potential accounts. For example, a customer opening a certificate of deposit account should be provided with information about ladder rates (smaller interest rates with smaller deposits) and penalty fees for early withdrawal of a portion or all of the funds.

B.8. 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. For instance, in Germany, the consumer may ask in a bank for an information brochure that explains credit reporting. Similarly, the Bankers Association of Australia requires the provision of a Key Facts Document for all products sold or delivered by a bank.

B.9. Advertising and Sales Materials

- a. Banks 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. Banks 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. Several directives in Europe hold financial institutions responsible for the content of their public announcements. These include the EU Directive on the Distance Marketing of Financial Services 2002/65/EC, the EU Directive on Misleading and Comparative Advertising 2006/114/EEC and the Unfair Commercial Practices Directive 2005/29/EEC.

B.10. Guarantees

No advertisement by a bank 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.

B.11. 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.

C. Customer Account Handling and Maintenance

C.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.**

See annotation of good practice B.10.

C.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.**

Banks in many countries provide at least 1- 3 months notice depending on the agreement. In most countries, banks indicate upfront whether the interest rate is fixed or variable, whether it is linked to LIBOR, etc. In such cases, the minimum notice that should be given in the event of a change in the interest rate should be agreed upfront. Interest rate increases that do not comply with the contractually stipulated notice will not be valid and binding on the consumer. The Code of Banking Practices should include this requirement. Consumers' rights to exit contracts were taken from the Guidelines 17 and 19 from the UN Guidelines for Consumer Protection.

C.3. Customer Records

A bank 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; and**
- 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. For more information, see annotation on good practice C.2.

C.4. Checks

There should be clear rules on the issuance and clearing of checks that, among other things, set reasonable requirements for banks on the following issues:

- a. For any bank on which a check is drawn, when the account on which it is drawn has insufficient funds;**

- b. For any bank at which a customer of that bank seeks to cash or deposit a check, which is subsequently found to be drawn on an account with insufficient funds;**
- c. Informing the customer of the consequences of issuing a check without sufficient funds, at the time a customer opens a checking account;**
- d. Regarding the crediting of a customer's account and its timing, when a check deposited by the customer clears; and**
- e. In respect of capping charges on the issuance and clearance of checks.**

There should be clear rules on consumer protection, including procedures for error resolution.

There are a number of international and national guidelines that have been consulted with regards to this good practice, such as the US Check Clearing for the 21st Century Act and important Codes of Banking Practices in Australia and South Africa.³⁰ The check clearing house rules provide guidelines on this good practice. However, these rules are designed for guiding banks and are not disclosed to the public. Thus, it is important that basic principles for bankers, such as the ones stated above, are followed by banks.³¹

C.5. Electronic Checks

- a. Customers should be provided with consistent, clear and timely information about the checks and the cost of using them, at all relevant stages in a consumer's decision, in easily accessible and understandable forms.**
- b. Customers should be informed on:**
 - (i) how the use of credit card checks differs from the use of a credit card;**
 - (ii) the interest rate that applies and whether this differs from the rate charged for card purchases;**
 - (iii) when interest is charged and whether there is no interest free period;**
 - (iv) whether additional fees or charges apply and how much;**
 - (v) whether purchases using a credit card checks benefit from the same protection as using a credit card.**
- c. Credit card checks should not be sent to consumers without prior consent.**
- d. Authorities should encourage efforts to enable end users to better understand the market for electronic checks, such as providing comparative price information or undertaking educational campaigns.**
- e. There should be clear rules on consumer protection, including procedures for error resolution.**

The background for this good practice has been provided by the EU Directive on Payment Services in the Internal Market 2007/64/EC, the US Regulation E and the BIS-World Bank's

³⁰ Available at: <https://www.fnb.co.za/downloads/legal/COBP071105.pdf>
<http://www.bankers.asn.au/Default.aspx?ArticleID=446> and
<https://www.fnb.co.za/legallinks/legal/cobp.html>

³¹ See World Bank Group, Financial and Private Sector Development Vice Presidency, Payment Systems Development Group, *Payment Systems Worldwide: a Snapshot. Outcomes of the Global Payment Systems Survey 2008*, 2008. See also Annex III for additional information on transparency and consumer protection in payment and remittance systems.

General Principles for International Remittance Services. However the Good Practice constitutes only part of the General Principles. For full information on payments and remittance services, see the full text of the General Principles.³²

C.6. 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.**

The following guidelines are relevant for this good practice: BIS-World Bank's General Principles for International Remittance Services, EU Directive on Payment Services in the Internal Market 2007/64/EC and US Regulation E. However the Good Practice constitutes only part of the General Principles. For full information on payments and remittance services, see the full text of the General Principles.³³

C.7. Debt Recovery

- a. No bank, 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.**

³² See <http://www.bis.org/press/p070123.htm>

³³ See <http://www.bis.org/press/p070123.htm>

- 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 (see the US Fair Debt Collection Practices Act, or the US Federal Trade Commission (FTC) and the UK Financial Services Authority (FSA) websites.) This good practice encapsulates the spirit of the foregoing concerns.

D. Privacy and Data Protection

D.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. These include the OECD Guidelines on the protection of privacy and trans-border flows of personal data (Article 2 'Scope of Guidelines'), the EU Directive on the Protection of Individuals with regard to the Processing of Personal Data 1995/46/EC, and the APEC Privacy Framework (Part ii, 'Scope').

D.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.**

The EC creates legal security by publishing standardized clauses and model contracts (see Commission Staff Working Document on the Implementation of the Commission Decisions on Standard Contractual Clauses for the Transfer of Personal Data to Third Countries 2001/497/EC and 2002/16/EC). For information processing and sharing, this could serve as an example for a personal data protection agency.

D.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. Again, the Personal Data Protection Agency may play a greater role in educating the public about credit information sharing. Examples can be derived from the FTC and the UK Information Commissioner's Office (ICO).

Data retention periods should be based upon international best practices or the statistical power of information and shall not be kept longer than this predictive power lasts. Retention periods differ from country to country.

D.4. Credit Reporting

- a. Credit reporting systems should be subject to appropriate oversight and have sufficient enforcement authority.**

For a full description of Good Practices for Credit Reporting, see Annex II. The extent of information collected by credit bureau must commensurate with the level of data protection and strength of the law of privacy in the country.

E. Dispute Resolution Mechanisms

E.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 Terms and Conditions referred to in B.7. above.**
- 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. Guidance on this good practice derives from the EU Commission Recommendation on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes, 2001/310/EC.

E.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 outlined in E.1 above.**
- 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 referred to in B.7 above.**
- 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 referred to in B.7 above.**

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.

F. Guarantee Schemes and Insolvency

F.1. Depositor Protection

- a. **The law should ensure that the regulator can take prompt corrective action on a timely basis.**
- b. **The law on deposit insurance should be clear on amongst other things: the insurer, the classes of those depositors who are insured, the extent of insurance coverage, the holder of all funds for payout purposes, the contributor(s) to this fund, each event that will trigger a payout from this fund to any class of those insured, and the mechanisms to ensure timely payout to depositors who are insured.**
- c. **In the absence of deposit insurance, there should be an effective and timely payout mechanism in the event of insolvency of a bank.**

Policymakers have choices regarding how they can protect depositors and contribute to financial system stability. Explicit, limited-coverage deposit insurance (a deposit insurance system) has become the preferred choice compared to other alternatives, such as reliance on implicit protection. A deposit insurance system clarifies the authority's obligations to depositors, limits the scope for discretionary decisions, can promote public confidence, helps to contain the costs of resolving failed institutions, and can provide countries with an orderly process for dealing with bank failures.

The introduction or the reform of a deposit insurance system can be more successful when a country's banking system is healthy and its institutional environment is sound. In order to be credible, a deposit insurance system needs to be part of a well-constructed financial system safety net, properly designed and well implemented. It also needs to be supported by strong prudential regulation and supervision, sound accounting and disclosure regimes, and the enforcement of effective laws. An effective deposit insurance system should also be supported by a high level of public awareness about its existence, its benefits and its limitations. A deposit insurance system can deal with a limited number of simultaneous bank failures, but the resolution of a systemic banking crisis requires that all financial system safety-net participants work together effectively. The BIS Core Principle 23 issued in September 2005, the EU Directive on Deposit Guarantee Schemes 1994/19/EC, and the key conclusions of the APEC Policy Dialogue on Deposit Insurance in 2005 have provided guidance for this good practice.³⁴

³⁴ See http://www.apec.org/apec/documents_reports/finance_ministers_process/2004.html

F.2. Insolvency

- a. Depositors should enjoy higher priority than other unsecured creditors in the liquidation process of a bank.**
- b. The law dealing with the insolvency of banks should provide for expeditious, cost effective and equitable provisions to enable the maximum timely refund of deposits to depositors.**

The BIS Supervisory Guidance on Dealing with Weak Banks and other international guidelines stated in the annotation of F.1. above have provided the background for this good practice.

G. Consumer Empowerment

G.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.

According to OECD analysis, many people have a poor understanding of the financial issues that affect their lives. Thus, OECD countries have agreed on new good practices on financial education relating to private pensions and insurance, which call on governments and businesses to work together to improve financial literacy in order to give people the tools they need to secure their future.³⁵ Important conferences and seminars have been organized to raise awareness on this issue, including the International Conference on Financial Education (India, September 2006), the G8 Conference on Improving Financial Literacy (Moscow, November 2006), the International Seminar on Risk Awareness and Education on Insurance Issues (Istanbul, April 2007), the International Forum on Financial Consumer Protection and Education (Budapest, October 2007) and the OECD-US Treasury International Conference on Financial Education (Washington, D.C., May 2008).

G.2. Financial Education through the Media

- a. Print and broadcast media should be encouraged to cover issues related to retail financial products.**

³⁵ See OECD, *Improving Financial Literacy: Analysis of Issues and Policies*, September 2005.

- b. Regulators and/or industry associations should provide sufficient information to the press and broadcast media to facilitate analysis of issues related to financial products and services.**

The role and impact of media cannot be overstated. However, there is often weak co-ordination and co-operation between the media and regulators and/or industry associations with the relevant information to educate consumers.

G.3. Information Resources for Consumers

- a. Financial regulators should seek to improve consumer awareness of financial products and services by devising, publishing and distributing independent information on the costs, risks and benefits of such products and services.**
- b. Non-governmental organizations should be encouraged to provide consumer awareness programs to the public regarding financial products and services.**

See annotation on G.2. above.

G.4. Financial Consumer Advocacy

In the development of financial sector policy, government and state agencies need to consult with banks and consumers and their respective associations in order to develop proposals that meet the needs and expectations of these key stakeholders.

To ensure that consumers are actively involved in the policy development process, the government, or private sector organizations, should either provide appropriate funding to non-governmental organizations for this purpose or create a special entity to lobby on behalf of consumers in the policy-making process.

See annotation on G.2. above.

G.5. Measuring Financial Capability

In order to ensure that financial consumer protection, education and information initiatives are proportionate and appropriate, and in order to measure the effectiveness of those initiatives over time, the financial capability of consumers should be measured periodically by way of large-scale market research that gets repeated from time to time.

For these purposes, the term “financial capability of consumers” means the ability to manage money, keep track of finances, plan ahead, choose appropriate financial products and services and stay informed about financial matters.³⁶

As individuals increase their use of financial products, it becomes more important that they are financially literate. Policymakers need to be able to identify individuals who need financial education the most, as well as the best ways to improve financial education. In order to assist

³⁶ This definition, as amended here slightly, is used on the website of the UK’s FSA.

policymakers, the OECD has established the International Gateway for Financial Education to describe, analyze and assess the effectiveness of programs to improve financial literacy.³⁷

H. Competition and Consumer Protection

H.1. Regulatory Policy and Competition Policy

Financial regulators and competition authorities should be required to consult with one another for the purpose of ensuring the establishment, application and enforcement of consistent policies regarding the regulation of financial services.

In many countries, general consumer law including the Competition policy in the EU requires a protection of the economic interests of consumers. This includes for instance, protection from misleading and comparative advertising and unfair contract terms. All business practices that restrict, prevent or distort competition are subject to scrutiny.³⁸

H.2. Review of Competition

Given the significance of retail banking to the economy as a whole and to the welfare of consumers, competition authorities should:

- a. Maintain a watching brief on competition in retail banking; and**
- b. Conduct and publish periodic assessments of competition in retail banking, and make recommendations on how competition in retail banking can be enhanced.**

See annotation on H.1. above.

Many international guidelines have provided guidance for the development of this good practice including, EC Treaty's Articles 81 and 82; EC's Sector Inquiry under Art 17 of Regulation 1/2003 on retail banking; OECD's non-binding Recommendations on competition law and policy; as well as OECD's Best Practices on information exchange in cartel investigations. OECD's Recommendations and Best Practices are often catalysts for major change by governments (see Table 1 for an overview of these recommendations and best practices).

H.3. Licensing of Commercial Entities

All commercial entities that either collect funds from consumers or lend funds to consumers need to be licensed and supervised.

This good practice forms the basis and foundation for the prerequisite and enforcement of consumer protection in the banking system (see Basel Core Principle 3). The licensing authority should have the power to set criteria and reject applications for establishments that do not meet the standards set. The licensing process, at a minimum, should consist of an assessment of the ownership structure and governance of the bank and its wider group, including the fitness and

³⁷ See www.oecd.org/daf/financialeducation.

³⁸ Report on the retail banking sector inquiry, see EU Commission Staff Working Document accompanying the Communication from the Commission – Sector Inquiry under Art 17 of Regulation 1/2003 on retail banking, 31 January 2007.

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propriety of Board members and senior management, its strategic and operating plan, internal controls and risk management, and its projected financial condition, including its capital base. Where the proposed owner or parent organization is a foreign bank, the prior consent of its home country supervisor should be obtained.

II. SECURITIES SECTOR

Consumer protection in the securities sector has been recognized as critical to the development of the depth and integrity of the securities markets for many years. The relationship between an intermediary and collective investment undertaking (CIU) and their customers provides for the fair and sound functioning of the securities markets. The maintenance of the integrity of that relationship has been the subject of governmental regulatory action and international cooperation for many years and is the basis for the development of these good practices.

Table 2. Overview of Consumer Protection Regulation for the Securities Sector

Institution	Laws, Regulations, Directives and Guidelines
IOSCO – International Organization of Securities Commissions	Objectives and Principles of Securities Regulation, February 2002 Methodology for Assessing the Implementation of the IOSCO Objectives and Principles of Securities Regulation
EU	Directive Concerning Processing Personal Data and Protection of Privacy in the Electronic Communication Sector, 2002/58/EC Directive on Protection of Consumers in Respect of Distance Contracts, 1997/7/EEC Directive on the Distance Marketing of Consumer Financial Services, 2002/65/EC Directive on Misleading and Comparative Advertising, 2006/114/EEC Directive on Markets in Financial Instruments, 2004/39/EC (MiFID) Directive on Investor-Compensation Schemes, 1997/9/EC
CESR – Committee of European Securities Regulators	A Proposal for a European Regime of Investor Protection: The Harmonization of Conduct of Business Rules, April 2002
FINRA – US Financial Industry Regulatory Authority	NASD Manual NASD Notice to Members 98-3 Electronic Delivery of Information between Members and their Customers, January 1998
SEC – US Securities and Exchange Commission	Securities Exchange Act of 1934 and regulations promulgated thereunder Securities Investors Protection Act of 1970, as amended, which created Securities Investors Protection Corporation

A. Investor Protection Institutions

A.1. Consumer Protection Regime

The law should provide for clear rules on investor protection in the area of securities markets products and services, and there should be adequate institutional arrangements for the implementation and enforcement of investor protection rules.

- a. There should be specific legal provisions in the law, which creates an effective regime for the protection of investors in securities.**

- b. There should be a governmental agency responsible for data collection and analysis (including complaints, disputes and inquiries) and for the oversight and enforcement of investor protection laws and regulations.**

A general consensus has developed that investor/consumer protection in the securities markets requires a legal framework and should be regulated by a governmental agency. Source: IOSCO Principles 1-5.

A.2. Code of Conduct for Securities Intermediaries and Collective Investment Undertakings

- a. Securities Intermediaries and CIUs should have a voluntary code of conduct.**
- b. Securities Intermediaries and CIUs should publicize the code of conduct to the general public through appropriate means.**
- c. Securities Intermediaries and CIUs should comply with the code and an appropriate mechanism should be in place to provide incentives to comply with the code.**

In addition to the governmental regulation, market professionals in the securities market should have a code of conduct that can provide guidance for market professionals and a means by which their customers can evaluate them. Sources: IOSCO Rules 25-29; CESR Standard 10 and Rule 17; and FINRA NASD Manual, Part 2000 Business Conduct.

A.3. Other Institutional Arrangements

- a. The judicial system should provide an efficient and trusted venue for the enforcement of laws and regulations on investor protection.**
- b. The media should play an active role in promoting investor protection.**
- c. The private sector, including voluntary investor protection organizations, industry associations and, where permitted, self-regulatory organizations should play an active role in promoting investor protection.**

A fair and efficient judicial system is critical for the functioning of any regulatory system. An open and free discussion regarding the financial system in the information media is also critical for a full evaluation of the extent to which a financial system provides protection for investors. In addition, private sector organizations are an important means of disseminating information to consumers in a cost effective manner and should be encouraged within the context of the legal system. Sources: FINRA NASD Rules of Conduct and SEC Securities and Exchange Act of 1934 Section 15A.

B. Disclosure and Sales Practices

B.1. General Practices

There should be disclosure principles that cover an investor's relationship with a person buying or selling securities, or offering to do so, in all three stages of such relationship: pre-sale, point of sale, and post-sale.

- a. **The information available and provided to an investor should inform the investor of the choice of accounts, products and services; the characteristics of each type of account, product or service; and the risks and consequences of purchasing each type of account, product or service.**
- b. **A securities intermediary or CIU should be legally responsible for all statements made in marketing and sales materials related to its products.**
- c. **A natural person acting as the representative of a securities intermediary or CIU should disclose to an investor whether he is licensed to act as such a representative and by whom he is licensed.**

Disclosure of all relevant information to a customer of a securities intermediary is one of the most important aspects of consumer protection in the securities sector. Full information about the services provided to the customer is critical in giving the customer the ability to make an informed decision as to which intermediary or CIU to use. Sources: (a) IOSCO Principle 23; CESR Standards 37-39; (b) IOSCO Principle 1; and (c) CESR Standard 35 and MiFID Article 19.

B.2. Terms and Conditions

Before commencing a relationship with an investor, a securities intermediary or CIU should provide the investor with a copy of its general terms and conditions, and any terms and conditions that apply to the particular account.

Insofar as possible, the terms and conditions should always be in a font size and spacing that facilitates easy reading.

The terms and conditions should disclose:

- a. **details of the general charges;**
- b. **the complaints procedure;**
- c. **information about any compensation scheme that the securities intermediary or CIU is a member of, and an outline of the action and remedies which the investor may take in the event of default by the securities intermediary or CIU;**
- d. **the methods of computing interest rates paid or charged;**
- e. **any relevant non-interest charges or fees related to the product;**
- f. **any service charges;**
- g. **any restrictions on account transfers; and**
- h. **the procedures for closing an account.**

This sets out the general disclosure requirements of B.1. in more detail regarding the specific contract that the customer enters into. The point-of-sale disclosure is recognized as the critical moment in sales disclosure due to its immediate impact on the customer to make the decision to invest. Sources: IOSCO Principle 23, CESR Standards 78-79 and Rule 80, and MiFID Article 19.

B.3. Professional Competence

Regulators should establish and administer minimum competency requirements for the sales staff of securities intermediaries and CIUs, and collaborate with industry associations where appropriate.

Since the sales person is the direct link between the intermediary and the customer, the sales persons should be properly qualified and knowledgeable about the products that they are selling. Sources: MiFID Article 9 (only requires managers of investment firms to be qualified) and FINRA NASD Manual Sections 1030-1032.

B.4. Know-Your-Customer

Before providing a product or service to an investor, a securities intermediary or CIU should obtain, record and retain sufficient information to enable it to form a professional view of the investor's background, financial condition, investment experience and attitude toward risk in order to enable it to provide a recommendation, product or service appropriate to that investor.

There is a general consensus that a securities intermediary and CIU should obtain information from their customers so that they can deal with them in a manner appropriate to their circumstances. Sources: IOSCO Principle 23, CESR Standard 62 and Rules 63-70, MiFID Article 19 and FINRA NASD Manual Sections 2310.

B.5. Suitability

A securities intermediary or CIU should ensure that, taking into account the facts disclosed by the investor and other relevant facts about that investor of which it is aware, any recommendation, product or service offered to the investor is suitable to that investor.

There is a general consensus that a securities intermediary should warn customers that certain types of investments are not suitable for them based on their financial situation and investment goals. Sources: IOSCO Principle 23, CESR Standards 72-74 and Rules 75-77, MiFID Article 19 and FINRA NASD Manual Sections 2310 provide background for this good practice.

B.6. Sales Practices

Legislation and regulations should contain clear rules on improper sales practices in the solicitation, sale and purchase of securities. Thus, securities intermediaries, CIUs and their sales representatives should:

- a. Not use high-pressure sales tactics.**
- b. Not engage in misrepresentations and half truths as to products being sold.**
- c. Fully disclose the risks of investing in a financial product being sold.**
- d. Not discount or disparage warnings or cautionary statements in written sales literature.**
- e. Not exclude or restrict, or seek to exclude or restrict, any legal liability or duty of care to an investor, except where permitted by applicable legislation.**

Legislation and regulations should provide sanctions for improper sales practices.

There is a general consensus that the obligation to deal fairly and honestly with customers includes the obligation to use sales practices that do not deceive, defraud or unduly pressure customers to make investment decisions. This obligation should be enforced with legal sanctions in order to make the obligation effective. Source: General duty IOSCO Principle 23 and MiFID

Article 19. More specifically, for some of the points a. to f. above, the following guidelines have been consulted: (a) CESR Standard 18 Rule 23; (b) CESR Standard 29 Rule 31 and FINRA NASD Manual Part 2120; (c) CESR Standards 51 and 52, Rules 53 and 54. Points d. and e. have been developed by the World Bank team.

B.7. Advertising and Sales Materials

- a. All marketing and sales materials should be in plain language and understandable by the average investor.**
- b. Securities intermediaries, CIUs and their sales representatives should ensure their advertising and sales materials and procedures do not mislead the customers.**
- c. Securities intermediaries and CIUs should disclose in all advertising, including print, television and radio, the fact that they are regulated and by whom.**

Disclosure of adequate information in advertising, marketing and sales materials is another important aspect of consumer protection in the securities sector. Sources (a) CESR Standard 25; (b) CESR Standard 29 and Rule 31, and FINRA NASD Manual Part 2210; and (c) CESR Standard 35 and MiFID Article 19.

C. Customer Account Handling and Maintenance

C.1. Segregation of Funds

Funds of investors should be segregated from the funds of all other market participants.

In order to protect customer funds in the event of insolvency of an intermediary or CIU, customer funds should be segregated from the assets of the intermediary or CIU in a manner to protect the assets from being a part of the bankruptcy estate of the intermediary and CIU. Sources: IOSCO Principle 23; MiFID Article 13 (7) and (8) that provide arrangements to safeguard client funds, but no statement of segregation; FINRA NASD Manual 2330 Customer's Securities; and SEC Securities and Exchange Act of 1934 and Regulation 15c3-3 promulgated thereunder.

C.2. Contract Note

Investors should receive a detailed contract note from a securities intermediary or CIU confirming and containing the characteristics of each trade executed with them, or on their behalf. The contract note should disclose the commission received by the securities intermediary, CIU and their sales representatives.

Customers should have immediate information as to any transactions in their accounts as well as the terms of the transactions. This enables customers to verify whether the transaction was executed pursuant to the authorization given by the customer. Waiting for such information for a long time period reduces the ability of the customer and intermediary or CIU to correct any mistakes in the transaction. Sources: IOSCO Principle 23, CESR Standard 55 and Rules 58 and 59, and FINRA NASD Manual Section 2230.

C.3. Statements

An investor should receive periodic, streamlined statements for each account with a securities intermediary or CIU, providing the complete details of account activity in an easy-to-read format.

- a. Timely delivery of periodic securities and CIU statements pertaining to the accounts should be made.**
- b. Investors should have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period.**
- c. When an investor signs up for paperless statements, such statements should also be in an easy-to-read and readily understandable format.**

Customers need access to the information regarding their accountants. Providing customers with regular statements on a periodic basis (depending on the activity in the account) has been generally accepted as the best means to provide this information. Sources: For points a. and c. above: (a) IOSCO Principle 23, CESR Standard 56 and Rule 59, and FINRA NASD Manual Section 2340; and (c) FINRA NASD Notice 98-3 Electronic Delivery of Information. Point b. has been developed by the World Bank team.

C.4. Prompt Payment and Transfer of Funds

When an investor requests the payment of funds in his or her account, or the transfer of funds and assets to another intermediary or mutual fund, the payment or transfer should be made promptly.

Investors may need immediate access to their funds in order to meet other financial and personal obligations. The delay in payment of account balances or the closing of accounts reduces confidence and the perception of the integrity of the securities markets. Sources: IOSCO Principle 23 and FINRA NASD Manual Section 11870.

C.5. Investor Records

A securities intermediary or CIU should maintain up-to-date investor records containing at least the following:

- a. A copy of all documents required for investor identification and profile.**
- b. The investor's contact details.**
- c. All contract notices and periodic statements provided to the investor.**
- d. Details of advice, products and services provided to the investor.**
- e. Details of all information provided to the investor in relation to the advice, products and services provided to the investor.**
- f. All correspondence with the investor.**
- g. All documents or applications completed or signed by the investor.**
- h. Copies of all original documents submitted by the investor in support of an application for the provision of advice, products or services.**
- i. All other information concerning the investor which the securities intermediary or CIU is required to keep by law.**

- j. All other information which the securities intermediary or CIU obtains regarding the investor.**

Details of individual transactions should be retained for a reasonable number of years after the date of the transaction. All other records required under a. to j. above should be retained for a reasonable number of years from the date the relationship with the investor ends. Investor records should be complete and readily accessible.

The maintenance of books and records is vital to the proper regulation of intermediaries, CIUs and other market participants, as well as the review of the events in individual customer accounts. Without the maintenance of these records, the regulatory system would be ineffective and customer protection would be minimized. Sources: IOSCO Principle 23; CESR Standard 10 Rule 15, requiring the retention of the details of transactions for 5 years after the date of the transaction; SEC Securities and Exchange Act of 1934, and Regulation 17a-3 thereunder; and FINRA NASD Manual Section 3110.

D. Privacy and Data Protection

D.1. Confidentiality and Security of Customer's Information

Investors of a securities intermediary or CIU have a right to expect that their financial activities will have privacy from unwarranted private and governmental scrutiny. The law should require that securities intermediaries and CIUs take sufficient steps to protect the confidentiality and security of a customer's information against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access to, or use of, customer information.

A consensus has developed that customers have a right to financial privacy and to be free from unwarranted intrusions into their privacy. Because of the requirement for intermediaries and CIUs to know their customers, securities markets professionals often have some of the largest sources of information regarding the financial situation of their customers. Therefore, it is very important that the intermediaries and CIUs have an obligation to keep the financial information of their clients secure from unwarranted access by internal persons in the intermediary and CIU and from external persons. Sources: EU Directive Concerning Processing Personal Data and Protection of Privacy in the Electronic Communication Sector 2002/58/EC, and SEC Securities and Exchange Act of 1934 and Regulation S-P.

D.2. Sharing Customer's Information

Securities intermediaries and CIUs should:

- a. Inform an investor of third-party dealings in which they should share information regarding the investor's account, such as legal enquiries by a credit bureau, unless the law provides otherwise;**
- b. Explain how they use and share an investor's personal information;**
- c. Allow an investor to stop or "opt out" of certain information sharing, such as selling or sharing account or personal information to outside companies that are not affiliated with them, for the purpose of telemarketing or direct mail marketing, and inform the investor of this option.**

Customers should be aware of how information can be shared with third parties and within the various units or subsidiaries of a financial conglomerate. Many of these shared uses can be beneficial for a customer, but a customer should have the right to stop or prohibit such information sharing if the customer does not find such information sharing to be useful or beneficial to him or her. Sources: EU Directive Concerning Processing Personal Data and Protection of Privacy in the Electronic Communication Sector 2002/58/EC, and SEC Securities and Exchange Act of 1934 and Regulation S-P.

D.3. Permitted Disclosures

- a. The law should state specific procedures and exceptions concerning the release of customer financial records to government authorities.**
- b. The law should provide for penalties for breach of investor confidentiality.**

Governmental regulatory authorities have the need to obtain customer information for regulatory purposes and law enforcement purposes. The instances where this is permitted should be clearly stated in the law, as well as procedures for notification or situations where notification is not required. Enforcement for violation of the privacy rules should be made effective by civil, administrative and criminal penalties, for violations of the law. Sources: EU Directive Concerning Processing Personal Data and Protection of Privacy in the Electronic Communication Sector 2002/58/EC, and SEC Securities and Exchange Act of 1934 Regulation S-P.

E. Dispute Resolution Mechanisms

E.1. Internal Dispute Settlement

- a. An internal avenue for claim and dispute resolution practices within a securities intermediary or CIU should be required by the securities supervisory agency.**
- b. Securities intermediaries and CIUs should provide designated employees available to investors for inquiries and complaints.**
- c. Securities intermediaries and CIUs should inform their investors of the internal procedures on dispute resolution.**
- d. The securities supervisory agency should provide oversight on whether securities intermediaries and CIUs comply with their internal procedures on investor protection rules.**

Many customer complaints come from misunderstandings or lack of information about their accounts, which can be cleared up internally with the intermediary and CIU. Efficient internal procedures should be in place to handle customer complaints fairly and quickly. Sources: for points a., c. and d. discussed above: (a) IOSCO Principle 23; (c) CESR Standard 78 Rule 80 where a procedure exists, such as arbitration; and (d) IOSCO Principles 1-5. Point b. has been developed by the World Bank team.

E.2. Formal Claims Dispute Mechanisms

There should be an independent dispute resolution system for resolving disputes that investors have with their securities intermediaries and CIUs.

- a. **A system should be in place to allow investors to seek third-party recourse, such as an ombudsman or arbitration court, in the event the complaint with their securities intermediary or CIU is not resolved to their satisfaction in accordance with internal procedure, and it should be made known to the public.**
- b. **The independent dispute resolution system should be impartial and independent from the appointing authority and the industry.**
- c. **The enforcement mechanism of the decisions of the independent dispute resolution system and the binding nature of the decision on securities intermediaries and CIUs should be established and publicized.**

Retail investors frequently invest small sums and the expense of judicial processes can render any successful claim regarding those sums meaningless. Consequently, it is important for retail investors to have an alternate method of dispute resolution which is quick, efficient and inexpensive so that their rights can be enforced. Sources: MiFID Article 53 and FINRA NASD Manual Section 12000 Code of Arbitration Procedure for Customer Disputes.

F. Insolvency of an Intermediary

F.1. Legal Provisions

- a. **There should be clear provisions in the law to ensure that the regulatory authority can take prompt corrective action on a timely basis in the event of distress at a securities intermediary or CIU.**
- b. **The law on the investors guarantee fund, if there is one, should be clear on the funds and financial instruments that are covered under the law.**
- c. **There should be an effective mechanism in place for the pay-out of funds and transfer of financial instruments by the guarantee fund or insolvency trustee in a timely manner.**
- d. **The legal provisions on the insolvency of securities intermediaries and CIUs should provide for expeditious, cost-effective and equitable provisions to enable the timely payment of funds and transfer of financial instruments to investors by the insolvency trustee of a securities intermediary or CIU.**

Customer funds should be protected in the event of the insolvency of intermediaries and CIUs where their funds are placed. The insolvency proceedings should provide for a fair and rapid mechanism for the pay out of customer funds. Where permitted by law, an investor guarantee fund can provide an independent, effective mechanism for ensuring that investor funds are protected and returned to them promptly. Sources: IOSCO Principle 24, EU Directive on Investor-Compensation Schemes, and SEC Securities Investor Protection Act of 1970.

G. Consumer Empowerment

G.1. Financial Education through the Media

- a. **Print and broadcast media should be encouraged to actively cover issues related to retail financial products.**
- b. **Regulators and/or industry association should provide sufficient information to the press and broadcast media to facilitate analysis of related issues.**

The media is one of the most efficient means of providing education and ongoing information to customers regarding the state of the securities markets and market participants. The regulator should view the media as an effective means of communicating its regulatory activity to a broad cross-section of investors and should provide the media with open access to public, non-confidential information for dissemination to the investing public. Source: This good practice has been developed by the World Bank team.

G.2. Information Resources for Investors

- a. Financial regulators should devise, publish and distribute information resources for investors that seek to improve awareness, providing independent information on the costs, risks and benefits of financial products and services.**
- b. Non-governmental organizations should be encouraged to provide investor awareness programs to the public regarding financial products and services.**

The regulator should take an active role in consumer education as part of its role to protect consumers. Consumers are better able to protect their interests and investments by making informed decisions prior to their investments, rather than engaging in litigation after an investment has gone awry. Source: IOSCO Principle 4.

III. INSURANCE SECTOR

Insurance markets in many emerging and developing countries now have rapidly growing consumer components, driven by the introduction of compulsory motor and health insurance, links with credit provision and the growth of microinsurance technology. Countries follow different approaches in their regulation of insurance institutions. Models include stand-alone supervisors (e.g. Russia, Egypt, Nigeria), integration within the Central Bank (e.g. Czech Republic, Serbia, Rwanda), and integration with the securities supervisor (e.g. Indonesia, Pakistan) and many variations on these basic structures.

There are a number of common undesirable industry practices that can be avoided through strengthening consumer rights. These are unrealistic benefit illustrations, poor disclosure of the real costs of products, misleading advertisements, unfair claims settlement practices and not selling to identified needs. Insurance is an industry where agency incentives can be the main driver of the kind of product and quantity sold. Further, multi-level sales through family and friends and tying and bundling (especially if adhesion principles apply under the law), can limit a consumer's choice and mobility. There are a number of international statutes, regulations and inquiries that provide the background for the developed template, as presented in Table 3.

Table 3. Overview of Consumer Protection Regulation for the Insurance Sector

Institution	Laws, Regulations, Directives and Guidelines
UN-United Nations	UN Guidelines concerning computerized personal data files adopted by the General Assembly on 14 December 1990
IAIS-International Association of Insurance Supervisors	Insurance Core Principles and Methodology, October 2003 Guidance Paper No. 4 on Public Disclosure by Insurers, January 2002
OECD	Good Practices for Enhanced Risk Awareness and Education in Insurance Issues, 2008 Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, 1980 Guidelines for the Security of Information Systems and Networks: Towards a Culture of Security, 2002 Guidelines for Good Practices for Insurance Claims Management, November 2004
APEC	APEC Privacy Framework, 2005
EU	Directive on Life Insurance, 2002/83/EC Directives on Non Life Insurance and Motor Insurance Directive on Reorganization and Winding-up of Insurance Undertakings, 2001/17/EC Directive Concerning Processing Personal Data and Protection of Privacy in the Electronic Communication Sector, 2002/58/EC Directive on Protection of Consumers in Respect of Distance Contracts, 1997/7/EEC Directive on the Distance Marketing of Consumer Financial Services, 2002/65/EC Directive on Misleading and Comparative Advertising, 2006/114/EEC Directive on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of such data, 1995/46/EC Directive on Certain Aspects of Mediation in Civil and Commercial Matters, 2008/52/EC

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For discussion and comment

	<p>Commission Recommendation on the Principles applicable to the Bodies responsible for Out-of-court Settlement of Consumer Disputes, 98/257/EC</p> <p>Commission Recommendation on the Principles for Out-of-court Bodies involved in the Consensual Resolution of Consumer Disputes, 2001/310/EC</p> <p>Green Paper on Retail Financial Services in the EU: Com (2007) 226 Final</p> <p>Policy statement: Nature and consequences of pyramid activities in life and accident insurance: Commission on Financial Services and Insurance, 30 May 1997</p> <p>The Project Group - Restatement of European Insurance Contract Law submission to the European Commission - Draft Common Frame of Reference (CFR): "Insurance Contract": http://www.restatement.info/</p>
COE - Council of Europe	<p>Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, the 28 January 1981, Entry into force: 1.10.1985) and Explanatory Report</p>
Other leading jurisdictions	<p>US National Association of Insurance Commissioners (NAIC) – Market Conduct Surveillance Model Law, 2004</p> <p>FTC – Standards for Safeguarding Customer Information, 2002</p> <p>Australia – Insurance Contracts Act, 1984</p> <p>Alberta, Canada – Fair Practices Regulation under Insurance Act, 128/ 2001</p> <p>English and Scottish Law Commissions – Insurance Contract Law: A Joint Scoping Paper, 2005 (http://www.scotlawcom.gov.uk/downloads/cp_insurance.pdf)</p> <p>Latvia – Insurance Contracts Law, September 1998 as amended</p> <p>Czech Republic – The Insurance Contract Act, December 2003</p> <p>Czech Republic – Act on Insurance Intermediaries and Loss Adjusters, December 2003</p>

Insurance market conduct legislation is most developed in the English speaking world, largely reflecting activist media, an enormous and dynamic case law inventory, and a number of high profile cases such as Equitable in the UK. The EU has more recently become engaged in this area with the passage of the Directive on Certain Aspects of Mediation in Civil and Commercial Matters 2008/52/EC and an ongoing dialogue on the broader consumer protection agenda. In developing and emerging markets, consumer protection tends to be secondary to sectoral development and prudential oversight, and reflects the usual late development of the retail component of insurance markets. In many developing countries, the middle class protect themselves by dealing with reputable international insurers or joint ventures with international partners. However, the development of microinsurance is forcing an earlier consideration of relevant regulation. The Consultative Group to Assist the Poor (CGAP) Microinsurance Working Group and Finmark Trust in South Africa have been separately developing guidelines for this new market.

Theoretical and policy studies on financial sector consumer protection are thin on the ground. Such work has acknowledged that consumer protection policy is different, although related to, competition policy. Work done in the late 1990s in particular identified the key role of information. Other work on human cognitive processes is also relevant to the insurance sector as relatively small probabilities of payout are often involved and it is clear that humans are not always rational in such circumstances. The insurance sector, because of a history of weak regulation and misuse for taxation and capital transfer purposes, or even direct fraud, has sometimes attracted less than desirable proprietors. This combined with the almost universal requirement as countries develop that certain classes of insurance be mandatory inevitably means

the eventual introduction of specific consumer protection laws and systems (although this sometimes follows rather than precedes politically sensitive scandals).

Table 4. Selected Key Readings on Consumer Protection for the Insurance Sector

Canadian Senate, <i>Report of the Standing Committee on Banking Trade and Commerce – Consumer Protection in the Financial Sector – The Unfinished Agenda</i> , June 2006
Hadfield, G. et al, Information-Based Principles for Rethinking Consumer Protection Policy, <i>Journal of Consumer Policy</i> , 1998
Herring, R. and Santomero, M., <i>What is Optimal Financial Regulation?</i> The Wharton School, May 1999
US National Association of Insurance Commissioners (NAIC), <i>Personal Lines Regulatory Framework</i> , September 2006
Monti, Alberto, The Law of Insurance Contracts in the People’s Republic of China: A Comparative Analysis of Policyholder’s Rights, <i>Global Jurists Topics</i> , Volume 1, Edition 3, 2001
UK Financial Services Authority (FSA), <i>Reforming Conduct of Business Regulation</i> , October 2006
UK Parliamentary and Health Services Ombudsman, <i>Equitable Life: A Decade of Regulatory Failure</i> , July 2008
Submissions by the Australian Law Reform Commission to the Department of Treasury Review of the <i>Insurance Contracts Act 1984</i> (Cth)
Tarr, A. Insurance Law and the Consumer, <i>Bond University Law Review</i> , Volume 1., 1989

A. Consumer Protection Institutions

A.1. Consumer Protection Regime

The law should provide for clear rules on consumer protection in the area of insurance and there should be adequate institutional arrangements for the implementation and enforcement of consumer protection rules.

- a. **There should be specific legal provisions in the law, which create an effective regime for the protection of consumers of insurance services.**
- b. **There should be either a general consumer agency or a specialized agency responsible for implementing, overseeing and enforcing consumer protection, as well as collecting and analyzing data (including complaints, disputes and inquiries).**
- c. **The rules should prioritize a role for the private sector, including voluntary consumer protection organizations and self-regulatory organizations.**

Good practices demand that insurers offering retail products and services are supervised for consumer protection purposes, because of the essentially opaque nature of insurance contracts (they offer a contingent intangible service delivered sometimes well after the contract is entered into), the enforced use of standard contracts (sometimes subject to adhesion rules), and the complexity of the relevant law (whether based on a civil code or common law). The International Association of Insurance Supervisors (IAIS) Insurance Core Principle (ICP) No. 25 expresses this as follows:

“The supervisory authority sets minimum requirements for insurers and intermediaries in dealing with consumers in its jurisdiction, including foreign insurers selling products on a cross-border basis. The requirements include provision of timely, complete and relevant information to consumers both before a contract is entered into through to the point at which all obligations under a contract have been satisfied.”

FSAP analysis shows that specialist B2C insurance consumer protection laws and systems have been a relatively late component of financial sector development in most countries.

A.2. Contracts

There should be a specialized insurance contracts section in the general insurance or contracts law, or ideally a separate Insurance Contracts Act. This should specify the information exchange and disclosure requirements specific to the insurance sector, the basic rights of insurer and policyholder and allow for any asymmetries of negotiating power or access to information.

Because of its highly specialized nature and very long history, insurance remains largely subject to a separate specialized body of Conduct. In Civil Code countries, insurance contracts are almost inevitably covered by a separate section of the Civil Code, which will often refer to relevant sections elsewhere in that code. The Civil Code may be supplemented by more specific sections in the insurance law dealing with supervisory and prudential matters. Some common law countries have separate insurance contracts laws, which may supplement a Civil Code.

Because commercial and industrial insurance usually precedes the development of consumer (retail) insurance markets, the corpus of the insurance law in most developing and many transition markets does not adequately cover B2C situations and such countries often eventually draw on industrial country models. Aside from specifying the minimal contents of an insurance contract (ideally differentiated by the fundamental nature of the coverage – long term, liability, property etc) good B2C contract regulations should differentiate between material and non material non disclosure, specify clearly when the contract goes into force (including cover note situations), when underinsurance justifies the application of average, notification requirements when an insurer wishes to cancel or alter a contract, how contracts will be interpreted in the event of dispute, minimum requirements regarding use of plain words, typeface etc. and what clauses may not be included (e.g. warranty clauses, compulsory arbitration on the insurer’s terms, etc.). Possible approaches are shown below:

- Eastern European Countries with separate contracts law – Germany, Czech Republic, Austria, Latvia
- Major other countries with separate insurance contracts law – UK, Australia
- Major countries with Insurance Contracts section in Insurance Law –China, India, US, Brazil, Russia, Canada
- Civil Code/ Law of Obligations only – Italy, Turkey

A.3. Code of Conduct for Insurers

- a. There should be a principles-based code of conduct for insurers that is devised in consultation with the industries and relevant consumer protection associations, and is monitored and enforced in the last resort by a statutory agency.**

- b. Insurers should publicize the statutory code to the general public through appropriate means.**
- c. The statutory code should be limited to good business conduct principles. It should be augmented by voluntary codes on matters specific to the product or channel concerned.**
- d. The operation of voluntary codes should be monitored by a statutory agency, and the Annual Report of that agency should comment on the operation of those codes.**

In European legislation, there is neither a specific demand for establishing Codes of Conduct in the insurance sector, nor are there provisions that demand the cooperation of the industry and consumer protection associations. Codes of Conduct are acknowledged by supervisors and statutory consumer bodies in some other jurisdictions, such as Australia and Malaysia.

Table 5. Selected Codes of Conduct for the Insurance Sector

Country	Original Title
Australia	National Insurance Brokers' Association – General Insurance Brokers' Code of Practice Insurance Council of Australia – General Insurance Code of Practice Financial Planning Association – Code of Ethics and Rules of Professional Conduct
India	Life Insurance Council of India – Code of Best Practice for Indian Life insurers -
Malaysia	Life Insurance Association of Malaysia – Code of Ethics and Conduct (approved by Bank Nagara)
Russia	Russian Association of Motor Insurers – various codes, including developing a register of insurance agents and insurance brokers against whom complaints have been made; rules of professional conduct entitled 'Improving the level of service in the MTPL market'; rules covering the review of claims made by victims and the payment of compensation.
South Africa	Life Offices Association Code – 24 chapters covering a range of products and activities
UK	Association of British Insurers – various codes, including Statement of Long-term Insurance Practice, Mortgage Endowment Policy Reviews, Statement of Best Practice for Critical Illness Cover, With-Profit Bonds - Best Practice Guide.

Source: World Bank research and Financial Sector Assessment Programs (FSAPs)

The exact institutional arrangement depends on legislation (for instance, whether it provides for the legal institution in terms of a statutory code). In some European legislation, it is remarked that the existence of codes alone is not sufficient for full compliance (COE Convention).

A.4. Other Institutional Arrangements

- a. There should be a balance between prudential supervision and consumer protection.**
- b. The judicial system should provide credibility to the enforcement of the rules on financial consumer protection.**
- c. The media and consumer associations should play an active role in promoting financial consumer protection.**

In countries where insurers fall under the supervision of a body with market conduct and prudential responsibilities, a balance needs to be found. For instance, in the UK, the FSA is responsible for capital requirements and consumer matters. Similar duties are held in the US by the National Association of Insurance Commissioners' (NAIC) certified state insurance departments. On-site inspectors are required to examine both prudential and market conduct aspects of their charges. Both the FSA and many state supervisors in the US provide web-based support to insurance consumers.³⁹ Theoretically it is better to separate these roles (e.g. the Wallis Inquiry – Australia), but institutional reality in many countries means that the prudential supervisor becomes the default recourse for consumers until financial markets have relatively deep penetration into the household sector and formal ombudsmen or equivalents are established⁴⁰ (e.g. the UK and Australia).

Media and consumer associations often play a very active role in promoting financial consumer protection in most industrial countries. In all European countries, there are consumer associations that deal with financial services.⁴¹ If, as under Article 7 of Decision No 20/2004/EC, specific criteria are fulfilled, the organization might be even supported financially by the EU (this holds for two organizations as of August 2008, the European Consumers' Organization (BEUC) and the European Association for the Co-ordination of Consumer Representation in Standardization (ANEC).

Further, the EC has created several consultative bodies, such as the Financial Services Consumer Group, a sub-group of the already existing European Consumer Consultative Group.⁴² These are permanent committees that encompass representatives of consumer organizations from each of the Member States. They are particularly required to ensure that consumer interests are properly taken into account in EU financial services policy. Another group is the European Consumer Debt Network, a network of debt counselors in different countries. Addresses of worldwide consumer associations can be found on the website of Consumers International.⁴³

A.5. Linked Products and Bundling Clauses

Whenever an insurer contracts with a merchant or credit grantor (including banks and leasing companies) as a distribution channel for its contracts, no bundling (including enforcing adhesion to what is legally a single contract), tying or other exclusionary dealings should take place without the consumer being advised and able to opt out.

Consumer protection can be used to avoid market power abuse by the dominant players.⁴⁴ Vertical restraints between companies of different industries include anti-competitive tying and bundling. Cross-selling that constitutes bundling or tying can have positive demand and supply-side effects, but may also hamper competition and customer mobility. Bundling is the sale of two goods together in a bundle. Firms bundle for several reasons, including economies of scope, price

³⁹ See the New Jersey Department of Banking and Insurance, Division of Insurance – Consumer Protection Services, <http://www.nj.gov/dobi/enfcon.htm>.

⁴⁰ See Australian Financial Ombudsman Service, http://www.fos.org.au/centric/home_page.jsp.

⁴¹ For an overview, see website http://ec.europa.eu/consumers/cons_org/associations/index_en.htm

⁴² The website of the sub-group can be found at http://ec.europa.eu/internal_market/finservices-retail/fscg/index_en.htm

⁴³ See <http://www.consumersinternational.org/Templates/Internal.asp?NodeID=97533>

⁴⁴ Bakker, M. R. and A. Gross, *Development of Non-bank Financial Institutions and Capital Markets in European Union Accession Countries*, World Bank Working Paper No. 28, 2004

discrimination, demand management or leverage of market power into other market segments. Bundling of faux insurance products has also been used to disguise the real price of associated credit or goods, particularly in Civil Code countries where the doctrine of adhesion applies.

Bundling is not *per se anti-competitive*, but can reduce competition and limit consumer choice, especially if there is a condition to purchase good B together with a good A (for instance, a mortgage contract together with payment insurance).

Positive effects on the demand side exist, when the price of bundled/tied services is lower for consumers than for unbundled goods and if convenience is increased. Supply-side effects may result from reduced costs of providing bundled services. Bundling, however, can increase pricing complexity and reduce market transparency. Thus, competitive strategies of firms do have implications for consumer protection.

Furthermore, bundling has the potential to be misleading in terms of obscuring costs for consumers and may at times render price comparisons impossible. Two criteria are important: (i) the limitation of consumer choice and (ii) whether other competitors are hindered. In the EU, bundling and tying practices in competition policy refer to Article 81 and Article 82 of the EC Treaty.

Bundling and tying that limits consumer choice is widespread in markets with weak competition enforcement and should therefore be evaluated when conducting diagnostic reviews of consumer protection.

B. Disclosure and Sales Practices

B.1. Sales Practices

- a. Insurers should be held responsible for product-related information provided to consumers by their agents (i.e. those intermediaries acting for the insurer).**
- b. Consumers should be made aware of whether the intermediary selling them an insurance contract (known as a policy) is acting for them or for the insurer (i.e. in the latter case they have an agency agreement with the insurer).**
- c. If the intermediary is a broker (i.e. acting on behalf of the consumer) then the consumer should be advised at the time of initial contact with the intermediary if commission will be paid by the underwriting insurer. The consumer should have the right to require disclosure of the commission and other costs paid to an intermediary for long term savings contracts. The consumer should always be advised of the amount of commission paid on single premium investment contracts.**
- d. An intermediary should not be allowed to identically fill broking and agency roles for a given general class of insurance (i.e. life and disability, health, general insurance, credit insurance).**
- e. Sanctions, including meaningful fines and, in the case of intermediaries, loss of license, should apply for breach of any of the above provisions.**

The main sources of guidance on insurance sales practices in the EU are the consolidated life insurance directive (Chapter 4 and Annex III) and the numerous directives covering non life insurance and motor insurance and the Mediation Directive. Annex III of the life directive in particular, requires that life insurance consumers are advised of recourse mechanisms at the time

of sale. Some EU members such as the UK, have disclosure and sales practices that are substantially stronger than those of the Life Insurance Directive and the Mediation Directive, including requiring that full records (sometimes including recordings) of sales transactions are maintained.

Other important directives include the Directive on the Distance Marketing of Financial Services 2002/65/EC; the Directive on Comparative Advertising 1997/55/EE; and the Directive 2005/29/EC on Unfair Commercial Practices, which sets out misleading practices (Article 6 and 7) with 23 examples in the Annex and aggressive practices (Article 8 and 9) with 8 examples. In Article 10, it is explicitly stated that unfair commercial practices may be controlled through codes of conduct. Further, there can be recourse to out-of-court settlement, but the latter shall not be seen as equivalent to judicial or administrative recourse.

Outside the EU and its affiliates, the main sources of regulation come from the common law industrial countries, in particular from the US and Australia, although there appear to be issues in the US for ‘force placed insurance’ (i.e. where a lending institution is the policyholder and beneficiary and passes on the cost to its customer). Canada has relied to a greater extent on widely publicized and accessible industry codes of ethics and a long established consumer inquiries center.⁴⁵

B.2. Advertising and Sales Materials

- a. Insurers should ensure their advertising and sales materials and procedures do not mislead customers. Regulatory limits should be placed on investment returns used in life insurance value projections.**
- b. Insurers should be legally responsible for all statements made in marketing and sales materials they produce related to their products.**
- c. All marketing and sales materials should be easily readable and understandable by the general public.**

Several directives in Europe hold financial institutions responsible for the content of their public announcements. These include the Directive on the Distance Marketing of Financial Services 2002/65/EC and the Directive on Comparative Advertising 1997/55/EEC.

The treatment of wordings in sales material and contracts is most developed in common law countries, where case law has been able to introduce such concepts as plain meaning interpretations (*consensus ad idem*), violation of good faith and fair dealing (*mala gestio*), and bans on warranty clauses that can enable insurers to avoid claims.

Common Law countries have more scope to deal with the enormous range of potential transaction types that can arise under property, liability (tort) and credit-related insurance arrangements. Civil code countries tend to rely on specific sections of their Civil Codes or separate Contracts Law (Law of Obligations) and sometimes on strict regulatory/supervisory oversight of transaction and sales material. Thus, courts in common law countries are able to bring all relevant material, including sales documents, to bear in arriving at a judgment. This in turn eventually affects the regulatory environment, while supporting an innovative and competitive market.

⁴⁵ See <http://www.insurance-canada.ca/consinfolife/life-and-health-initiatives-412.phpm>.

B.3. Know Your Customer (KYC)

The sales intermediary or officer should be required to obtain sufficient information about the consumer to ensure an appropriate product is offered. Formal ‘fact finds’ should be specified for long term savings and investment products and they should be retained and be available for inspection for a reasonable number of years.

The FSA has pioneered KYC concepts in the insurance sector.⁴⁶It defines KYC (with regards to consumer protection as opposed to money laundering) as follows:

“Know your customer. When advising customers, KYC this is also known as ‘factfinding’. It refers to obtaining sufficient information about a customer’s personal and financial situation before giving the advice.”

KYC standards in the money laundering sense should be implemented by the national supervisory authorities, whereby financial institutions have different degrees of freedom to design their own customer acceptance policies. The key elements of the policy as it relates to the insurance sector can be found in IAIS ICP No. 28 – Anti Money Laundering, Combating the Financing of Terrorism, which specifically acknowledges the role of the FATF. In practice, and despite the huge international financial flows the insurance sector generates (part of which is known to involve funds transfer), this sector has been relatively untouched by the AML/ CFT community.

B.4. Cooling-off Period

There should be a reasonable cooling-off period associated with any traditional investment or long term life savings contract, after the policy information is delivered, to deal with possible high pressure selling and mis-selling.

Cooling-off periods (also known as free look periods) are seen primarily as a consumer protection mechanism, although it has been argued that they are also economically efficient.⁴⁷

The right of withdrawal is enshrined in the Article 6 of the Distance Marketing of Consumer Financial Services Directive. According to its provisions, the consumer has the right to withdraw from a contract without penalty and without giving any reasons. The periods vary according to the products and are longer for insurance contracts and pension products. The period of withdrawal typically begins with the conclusion of the contract in the range of *two weeks* (14 calendar days as stated in the aforementioned directive). The EU Life Insurance Directive specifies a cooling off period of between 14 and 30 days after the ‘contract has been concluded’.

Cooling-off periods are common for long term insurance products (i.e. life insurance) in industrial countries and some emerging markets, such as Singapore, and cover a wider range of insurance products in others, such as Australia.⁴⁸ They are typically longer than the cooling-off periods for securities (including investment linked life contracts) because of the onerous early

⁴⁶ See Chapter 14, http://www.fsa.gov.uk/pubs/cp/cp06_19.pdf.

⁴⁷ Rekaiti, P. and Van den Bergh, R. ‘Cooling-Off Periods in the Consumer Laws of the EC Member States. A Comparative Law and Economics Approach’, *Journal of Consumer Policy*, November 2004

⁴⁸ See <http://www.asic.gov.au/fido/fido.nsf/byheadline/Cooling+off+rights?openDocument>.

termination penalties that apply to many traditional life insurance savings contracts. In other countries (e.g. Japan), certain products such as variable annuities have voluntary cooling-off periods within their products structures.

B.5. Key Facts Document

A Key Facts Document should be attached to all sales and contractual documents, disclosing the key factors of the insurance product or services in large print.

The key facts requirements (and features if intermediary and product are differentiated) are most developed in the UK and reflect the political response to a number of very public scandals, including Equitable.⁴⁹ Key facts documents are also known as initial disclosure documents or IDD. In other countries (e.g. Australia), standardized B2C insurance contracts are established by law, with the right of derogation provided that this is fully disclosed. Some states in the US specifically ban certain wordings (such as warranty clauses) that would enable an insurer to avoid an otherwise legitimate claim. Some US states also lead the way in applying fair dealing concepts.

B.6. Professional Competence

- a. Sales personnel and intermediaries selling and advising on insurance contracts should have sufficient qualifications, depending on the complexities of the products they sell.**
- b. Educational requirements for intermediaries selling long term savings and investment insurance products should be specified, or at least approved, by the regulator or supervisor.**

The standard of service delivery depends not only on the product but also on the knowledge and technical know-how of the individual delivering the service. Since the sales person is the direct link between the intermediary or the insurer and the customer, the sales personnel should be properly qualified and knowledgeable about the products that they are selling. Financial products are becoming increasingly complicated. Thus, it is important that consumers fully understand these complex products before buying them.

B.7. Regulatory Status Disclosure

- a. In all of its advertising, whether by print, television, radio or otherwise, an insurer should disclose: (a) that it is regulated and (b) the name and address of the regulator.**
- b. All insurance intermediaries should be licensed and proof of licensing should be readily available to the general public, including through the internet.**

This is in line with responsible and fair commercial practices. The status disclosure is important to signal the trustworthiness of the company and indicate the authority that regulates it.

⁴⁹ See <http://www.moneymadeclear.fsa.gov.uk/home.html>.

B.8. Disclosure of Financial Situation

- a. The regulator or supervisor should publish annual public reports on the development, health, strength and penetration of the insurance sector either as a special report or as part of the disclosure and accountability requirements under the law governing it.**
- b. Insurers should be required to disclose their financial information to enable the general public to form an opinion with regards to the financial viability of the institution.**
- c. If credible claims paying ability ratings are not available, the regulator or supervisor should periodically publish sufficient information on each insurer for an informed commentator or intermediary to form a view of the insurer's relative financial strength.**

IAIS ICP No. 26 (Information, Disclosure and Transparency towards the Market) covers disclosure and is summarized as follows:

“The supervisory authority requires insurers to disclose relevant information on a timely basis in order to give stakeholders a clear view of their business activities and financial position and to facilitate the understanding of the risks to which they are exposed.”

Virtually every country requires insurers to publish their annual accounts (or more often summaries thereof) in the print media at least annually. In most industrial and emerging markets, the leading insurers already have websites that include their product offerings and periodic public accounts, including annual reports. Unfortunately, accounting and actuarial standards are still not at international levels in the majority of emerging and developing countries. In industrial countries the relevant IFRS remains mired in controversy, particularly in accounting for the fair value of liabilities. Regardless of context, a high degree of sophistication is required to interpret the financial information provided. As a fall back, some countries (e.g. Pakistan) require that claims paying ability is rated for all insurers, although the relevant rules do not always specify that international rating agencies should be employed.

More detailed technical data are available in some industrial countries, most notably in the US, although in other countries (e.g. Australia) certain information such as claims run off triangles has been withdrawn under industry pressure.

C. Customer Account Handling and Maintenance

C.1. Customer Account Handling

- a. The customer should receive periodic statements of the value of their policy in the case of insurance savings and investment contracts. For life insurance (which covers both risk coverage and investment), the customer should receive statements on the portion of the premium used for risk cover vs. investment.**
- b. For traditional savings contracts, this should be provided at least yearly, however more frequent statements should be produced for investment-linked contracts.**
- c. Customers should have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period.**

- d. Insurers should be required to disclose the cash value of a traditional savings or investment contract upon demand and within a reasonable time. In addition a table showing projected cash values should be provided at the time of delivery of the initial contract and at the time of any subsequent adjustments. The customer should be advised of the assumptions made when preparing the projected cash value of the policy. Alternatively the projection could be prepared with 0% expected return in order to clearly illustrate the effect of fees.**
- e. Customers should be provided with renewal notices a reasonable number of days before the renewal date for non-life policies. If an insurer does not wish to renew a contract it should provide a reasonable notice period.**
- f. Claims should not be deniable or adjustable if non disclosure is discovered at the time of the claim but is immaterial to the proximate cause of the claim. In such cases, the claim may be adjusted for any premium shortfall or inability to recover reinsurance.**
- g. Insurers should have the right to cancel a policy at any time (other than after a claim has occurred – see above) if material non disclosure can be established.**

Insurance law rarely deals with customer account handling in any detail – partly reflecting the huge variation in insurance arrangements that are possible. The EU Life Directive does require that policyholders are advised of bonus developments, but this does not appear to mean that individual policyholders are regularly advised of the cash value of their contracts. The heavy selling costs associated with traditional life insurance products often means that a contract has no value for some years and there are strong incentives for the life insurance sector to resist cash value disclosure for the first 5 or more years a contract is in force. As markets develop, insurers tend to unbundle the pure risk and savings/investment components of long term contracts and disclosure standards often improve.

D. Privacy and Data Protection

D.1. Confidentiality and Security of Customer's Information

Customers have a right to expect that their financial transactions are kept confidential. The law should require insurers 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 personally identifiable information, that is any information about an identified or identifiable individual, is protected under several international statutes, such as the OECD Guidelines governing the protection of privacy and trans-border flows of personal data (Article 2 'Scope of Guidelines') and the UN Guidelines concerning computerized personal data files adopted by the General Assembly on 14 December 1990 (Section A, minimum guarantees that should be provided in national legislations). Other important statutes include: the Directive on the Protection of Individuals with regard to the Processing of Personal Data 1995/46/EC (Chapter 1, Article 1-3); the COE Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, 28 January 1981, Chapter 1 'General Provisions'); and the APEC Privacy Framework (Part ii, 'Scope').

Technical security is also demanded by the above guidelines and directives. The OECD Guidelines for the Security of Information Systems and Networks: Towards a Culture of Security provide a more detailed guideline on technical security.

In the US, the FTC issued the Standards for Safeguarding Customer Information (2002), which obligates financial institutions to hold customer information secure and confidential.⁵⁰

The use of medical and genetic (biometric) information for the acceptance/ decline and rating of life related risks is now a major area of debate, but is not within the scope of this note.

E. Dispute Resolution Mechanisms

E.1. Internal Dispute Settlement

- a. An internal avenue for claim and dispute resolution practices within the insurer should required by the supervisory agency.**
- b. Insurers should designate employees to handle retail policyholder complaints.**
- c. The insurer should inform its customers of the internal procedures on dispute resolution.**
- d. The regulator or supervisor should provide oversight on whether insurers comply with their internal procedures on consumer protection rules.**

Insurers should have written policies in place for dispute settlement. A written policy should hold the insurer liable for the announced policy. This policy should offer contact points for the consumer that are accessible during business hours without undue waiting times, state in plain language the main steps of customer dispute resolution, provide firm and reasonable timelines, guarantee fairness in handling the customer dispute, state the coordination with any ombudsman and/or supervisory authority, and explain in plain language the consumer's rights in the process. Consumer dispute settlement should not lead to unreasonable costs in terms of time and money for the consumer.

The EU Life Directive requires that policyholders are advised of their right of recourse; however specific provisions of this type are uncommon in insurance law. Consumer protection law sometimes does provide for notification of rights, although insurance transactions may be excluded in certain circumstances (e.g. the latest version of the Croatian Consumer Protection Act, Official Gazette 125/2007).

E.2. Formal Dispute Settlement Mechanisms

- a. A system should be in place that allows consumers to seek affordable and efficient third-party recourse, which could be an ombudsman or tribunal, in the event the complaint with the insurer is not resolved to their satisfaction in accordance with internal procedures.**
- b. The role of an ombudsman or equivalent institution vis-à-vis consumer complaints should be made known to the public.**

⁵⁰ See <http://www.ftc.gov/os/2002/05/67fr36585.pdf>

- c. The ombudsman or equivalent institution's impartiality and independence from the appointing authority and industry should be assured.**
- d. The enforcement mechanism of the decisions of the ombudsman or equivalent institution and binding nature of the decision on banks should be established and publicized.**

See annotated banking section. The same largely holds for insurers where one of the most advanced systems is now to be found in Australia, where an SRO based insurance inquiries and complaints resolution system has evolved into a fully fledged financial sector ombudsman.⁵¹

F. Guarantee Schemes and Insolvency

F.1. Guarantee Schemes and Insolvency

- a. With the exception of schemes covering mandatory insurances, guarantee schemes are not to be encouraged for insurance because of the opaque nature of the industry and the scope for moral hazard. Strong governance and supervision are better alternatives.**
- b. Nominal defendant arrangements should be in place for mandatory insurances such as motor third party liability insurance.**
- c. Assets covering life insurance mathematical reserves and investment contract policy liabilities should be segregated or at the very least earmarked, and long-term policyholders should have preferential access to such assets in the event of a winding-up.**

Non life insurance is typically subjected to normal commercial wind-up rules in the event of insurer insolvency, with the subsequent claims settlement process is usually handled by specialist run off companies. Policyholders normally arrange new coverage with the remaining solvent insurers in the market concerned. However, most countries do have guarantee arrangements for mandatory consumer classes, such as motor third party insurance. These cover claims that cannot be settled due to insurer bankruptcy or because the guilty driver/ vehicle cannot be identified (i.e. the guarantee fund acts as 'nominal defendant').

Life insurance is also often deemed to require supplementary arrangements because it can represent a significant asset for the individual or household and may also serve as loan collateral. In this case the usual protection is primarily afforded through separation of life and non life insurers and strong prudential oversight. However, composites (insurers writing both life and non life) have been grandfathered in numerous countries and special additional arrangements are required in this situation. This may range from the relatively weak EU Directive [2001/17/EC](#) on Reorganization and Winding-up of Insurance Undertakings), which requires that the assets covering defined life insurance liabilities are earmarked, to the requirement that completely separate statutory funds are maintained, as in some British Commonwealth Countries. In addition, life policyholders normally rank very high in terms of creditor priority. Most countries also either specify investment limits for the assets covering life insurance mathematical reserves, or require that capital allocated reflects the risk characteristics of the asset portfolio.

⁵¹ http://www.fos.org.au/centric/home_page.jsp

G. Consumer Empowerment

G.1. Information Resources for Consumers

- a. Consumers, especially the most vulnerable, should have access to sufficient resources to enable them to understand financial products and services available to them.**
- b. Financial regulators should seek to improve consumer awareness of financial products and services by devising, publishing and distributing independent information on the costs, risks and benefits of such products and services.**
- c. Non-governmental organizations should be encouraged to provide consumer awareness programs to the public regarding financial products and services.**

See annotation of good practice G.3 for banking institutions.

G.2. Measuring Financial Capability

- a. Policymakers, industry and advocates should understand the financial capability of various market segments, particularly those most vulnerable to abuse.**
- b. In order to ensure that financial consumer protection, education and information initiatives are proportionate and appropriate, and in order to measure the effectiveness of those initiatives over time, the financial capability of consumers should be measured periodically by way of large-scale market research that gets repeated from time to time.**

For these purposes, the term “financial capability of consumers” means the ability to manage money, keep track of finances, plan ahead, choose appropriate financial products and services and stay informed about financial matters.

See annotation of good practice G.5 for banking institutions.

IV. NON-BANK CREDIT INSTITUTIONS

Consumer finance provided by non-bank credit institutions is an ever more important segment of the credit market. Countries follow different approaches in the regulation of non-bank credit institutions. Some fall under the supervision of the central bank or banking supervisory agency. Others are under the economic development ministry. Non-bank credit institutions conduct consumer lending in most cases without taking cash deposits from the public. Thus they fall outside the scope of prudential regulation. The range of legal forms of the non-bank credit institutions varies, but typically they encompass consumer finance companies (including credit card companies), leasing firms,⁵² mortgage lenders and pawn shops or credit cooperatives.⁵³ Depending on the country, there may exist difficulties in identifying non-bank credit institutions. Government authorities should establish mechanisms that ensure the identification of all non-bank credit institutions.

A number of undesirable industry practices by non-bank credit institutions can be avoided through strengthening consumer rights. These include predatory lending, discriminatory pricing, poor disclosure of costs of products and misleading advertisement. Further, tying and bundling can limit a consumer’s choice and mobility.

Legislation with regards to non-bank credit institutions is especially developed in Europe and in the US. Thus the examples and background for the good practices are primarily drawn from European and US legislation, but they also rely on guidelines and guidance from international institutions such as the BIS as noted in Table 6.

Table 6. Overview of Consumer Protection Regulation for Non-Bank Credit Institutions

Institution	Laws, Regulations, Directives and Guidelines
UN	UN Guidelines concerning computerized personal data files adopted by the General Assembly on 14 December 1990
OECD	Guidelines for the Security of Information Systems and Networks: Towards a Culture of Security, 2002 Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, 1980
BIS	Basel Committee on Banking Supervision, Consolidated KYC Risk Management, October 2004 Basel Committee on Banking Supervision, Customer Due Diligence for Banks, October 2001
APEC	APEC Privacy Framework, 2005

⁵² Leasing is captured in the good practices where it is allowed to be directly provided to private persons for purposes other than professional (i.e. for consumption purposes).

⁵³ The good practices exclude microfinance due to the professional purposes for which credits are granted. The report uses the definition of the retail market as those economic transactions made between economic operators and final consumers. The retail market is sometimes called the business-to-consumer (or “B2C”) market. This market does not include businesses--however small--in their role as purchasers of financial services.

EU	<p>Directive on Consumer Credit, 1998/7/EC, amending Directive 87/102/EEC</p> <p>Directive on Credit Agreements for Consumers, 2008/48/EC, repealing Directive 87/102/EEC</p> <p>Directive on Unfair Terms in Consumer Contracts, 1993/13/EEC</p> <p>Directive concerning Unfair Business-to-Consumer Commercial Practices in the Internal Market, 2005/29/EC</p> <p>Directive on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of such data, 1995/46/EC</p> <p>Directive Concerning Processing Personal Data and Protection of Privacy in the Electronic Communication Sector, 2002/58/EC</p> <p>Directive on Protection of Consumers in Respect of Distance Contracts, 1997/7/EEC</p> <p>Directive on the Distance Marketing of Consumer Financial Services, 2002/65/EC</p> <p>Directive on Markets in Financial Instruments, 2004/39/EC (MiFID)</p> <p>Treaty establishing the European Community (EC Treaty), 1957 as amended</p>
COE	<p>Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No.108, the 28 January 1981, Entry into force: 1.10.1985) and Explanatory Report</p>
US	<p>Consumer Credit Protection Act (15 USC, Chapter 41), 1968</p> <p>Truth In Lending Act (TILA) (15 USC. § 1601), 1968</p> <p>Fair Credit Billing Act (15 USC § 1637), 1968</p> <p>Fair Credit Reporting Act (15 USC § 1681), 1970</p> <p>Equal Credit Opportunity Act (15 USC §§ 1691 - 1691e), 1974</p> <p>Fair Credit Debt Collection Act (15 USC §§ 1692 - 1692o), 1977</p> <p>FTC – Standards for Safeguarding Customer Information, 2002</p>

A. Consumer Protection Institutions

A.1. Consumer Protection Regime

The law should provide for clear rules on consumer protection in the area of non-bank credit institutions, and there should be adequate institutional arrangements for implementation and enforcement of consumer protection rules.

- a. There should be specific provisions in the law, which create an effective regime for the protection of consumers of non-bank credit institutions;**
- b. The supervisory authority for non-bank credit institutions should have a register which lists the names of non-bank credit institutions;**
- c. The rules should acknowledge the role for the private sector, including voluntary consumer protection organizations and self-regulatory organizations.**

Good practices demand that non-bank credit institutions are supervised for consumer protection purposes, in order to avoid eroding existing rules in banking by reaping regulatory arbitrage in providing financial services simply under a different institutional category.

Non-bank credit institutions in Europe are not exempted from consumer protection provisions, which exist especially in the EU Directive 2008/48/EC on Credit Agreements for Consumers,

repealing Directive 87/102/EEC. However, the enforcement of the law differs from country to country and depends on the national institutional circumstances.

In general, the industry is free to create its own codes of conduct, which are not specifically demanded by the above quoted directives.

A.2. Code of Conduct for Non-Bank Credit Institutions

- a. There should be a principles-based code of conduct for non-bank credit institutions that is devised in consultation with the industries and relevant consumer protection associations, and is monitored and enforced in the last resort by a statutory agency.**
- b. Non-bank credit institutions should publicize the statutory code to the general public through appropriate means.**
- c. The statutory code should be limited to good business conduct principles. It should be augmented by voluntary codes on matters specific to the industry (credit unions, credit cooperatives, other non-bank credit institutions).**
- d. The operation of voluntary codes should be monitored by a statutory agency, and the Annual Report of that agency should comment on the operation of the codes.**

In European legislation, there is neither a specific demand for establishing codes of conduct on lending, nor are there provisions that demand the cooperation of the industry and consumer protection associations. However, there are principles-based codes, such as from the Finance & Leasing Association in the UK. This code, which holds for a number of products (e.g. loans, store cards, credit cards, personal loans), covers lending and information and marketing practices. Table 7 lists lending codes of conduct in ten European countries.

Table 7. Selected Codes of Conduct for Lending in Europe

Country	Original Title
Belgium	Code of Conduct Comment changer de banque facilement
Bulgaria	Ethical Code
Cyprus	Code of Banking Conduct Code for Conduct between Banks and Small and Medium-sized Enterprises
Czech Republic	European Agreement on a Voluntary code of conduct Pre-contractual Information for Home Loans Code of Conduct on Relations Between Banks and Clients Ethical Code of the Czech Banking Association
Finland	Good Banking Practice
Hungary	Code of Ethics
Ireland	Business Account Switching Code Code of Practice on Switching Accounts Code of Practice on Mortgage Arrears
Luxembourg	Consumer Protection Code

Netherlands	Code of Conduct for the Processing of Personal Data by Financial Institutions Code of Conduct on Mortgage Credit Switch Support Service
UK	Banking Code Business Banking Code Code of Conduct for the Advertising of Interest Bearing Accounts Code of Conduct of the Finance & Leasing Association
Europe	European Agreement on a Voluntary code of conduct Pre-contractual Information for Home Loans

Source: European Credit Research Institute

The institutional arrangements depend on legislation (for instance, whether it provides for the legal institution in terms of a statutory code). However the COE Convention on the protection of personal data notes that the existence of codes alone is not sufficient for full compliance.

A.3. Other Institutional Arrangements

- a. There should be an equal balance between supervision and consumer protection in the banking supervisory agency.**
- b. The judicial system should provide credibility to the enforcement of the rules on financial consumer protection.**
- c. The media and consumer associations should play an active role in promoting financial consumer protection.**

In countries where non-bank credit institutions fall under supervision of the banking regulator, such supervision should be equally balanced with consumer protection. At the same time, an effective court system is also needed for credible enforcement of the rules.

Media and consumer associations play a very active role in promoting consumer financial protection in Europe, including with regards to non-bank financial institutions. In all European countries, there are consumer associations that deal with financial services.⁵⁴ Organizations might even be supported financially by the EU if specific criteria are fulfilled (Article 7 of the EU Decision No. 20/2004/EC establishing a General Framework for Financing Community Actions in support of Consumer Policy for the Years 2004 to 2007 and Article 5 of the EU Decision No. 1926/2006/EC establishing a Programme of Community Action in the field of Consumer Policy 2007-2013), This is the case for two organizations as of August 2008, ANEC and BEUC.

Furthermore the EC has created several consultative bodies, such as the Financial Services Consumer Group, a sub-group of the already existing European Consumer Consultative Group.⁵⁵ Permanent committees encompass representatives of consumer organizations from each of the EU Member States. They are specifically asked to ensure that consumer interests are properly taken into account in the EU financial services policy. Another group is the European Consumer

⁵⁴ For an overview see: http://ec.europa.eu/consumers/cons_org/associations/index_en.htm

⁵⁵ See http://ec.europa.eu/internal_market/finservices-retail/fscg/index_en.htm

Debt Network, a network of debt counselors in different countries. Addresses of worldwide consumer associations can be found on the website of Consumers International.⁵⁶

B. Disclosure and Sales Practices

B.1. Know Your Customer (KYC)

Non-bank credit institutions should gather, file or record sufficient information appropriate to the risk of the transaction, the nature and complexity of the product or service being sought by the consumer.

The Basel Committee on Banking Supervision of the BIS sets the international guidelines on KYC policies for credit institutions. According to the Basel Committee's Customer Due Diligence for Banks, absence of such policies may subject banks and other financial institutions to severe reputational, operational, legal and concentration risks. Although non-bank financial institutions that are not deposit-taking can not be used for money laundering, identification of customers is in their interest due to high fraud risk.

KYC standards should be implemented by the national supervisory authorities, whereby financial institutions have different degrees of freedom to design their own customer acceptance policies. The key elements of the policy have been described in several documents.⁵⁷ Typically, the degree of due diligence depends on the risks associated with the transaction and the particular client.⁵⁸ For instance, for identification, one standard is to use the 'most difficult to obtain illicitly and to counterfeit' documents such as government-issued IDs.

In some developing countries, regulators have started to experiment with a *decrease* in KYC requirements for small transaction accounts (e.g. in India, Maldives and South Africa, among others). However, there are no international guidelines about how this is best conducted.

B.2. Affordability

Non-bank credit institutions should ensure that, under consideration of relevant information (disclosed by the consumer or third parties), any product or service offered to a consumer is adequately based upon affordability.

Affordability looks at whether a consumer can afford additional debt obligations once the monthly income net of financial and living expenses (including rent or mortgage payments) is considered. Households might have different tolerances with respect to the share of current income they want to devote to debt-servicing. Assessment of affordability differs from that of creditworthiness. Creditworthiness involves estimating default or delinquency risks and is a component of responsible lending. In the EU Consumer Credit Directive (Article 8), this concept includes the requirement to obtain information from the consumer as well as the relevant

⁵⁶ See <http://www.consumersinternational.org/Templates/Internal.asp?NodeID=97533>

⁵⁷ See the following documents of the Basel Committee on Banking Supervision: *The Prevention of Criminal Use of the Banking System for the Purpose of Money Laundering*, 1988; *Core Principles for Effective Banking Supervision*, 1997 revised in 2006; *Core Principles Methodology*, 1999.

⁵⁸ According to the Basel Committee's Customer Due Diligence for Banks, 'customer' includes both natural persons and legal entities, represented by agents whose identity also has to be verified, as well as trustees, beneficial owners or main shareholders.

database, such as a credit bureau. In some Member States, the latter is even required. Creditworthiness should be re-assessed before any significant increase in the amount of credit. The provisions of the EU Consumer Credit Directive hold for all lenders, including non-bank credit institutions. Products covered include all credit contracts between €200- €75.000.⁵⁹ The provisions only apply to contracts in which the consumer has to pay interest. Deferred payment cards and mortgage credit are not included.

In addition, in the US, a number of new consumer protection provisions have been proposed for the Federal Reserve Board's Unfair or Deceptive Acts or Practices (Regulation AA), the Truth in Lending Act and the Truth in Savings Act. As of mid-July 2008, the Federal Reserve Board has approved measures to ensure responsible lending in mortgage markets. One of the key provisions is a lender's responsibility to assess the repayment ability of a borrower by checking income and other assets, excluding the home's value.

In South Africa, over-indebtedness, reckless lending and debt counseling are regulated in Chapter 3 Part D of the National Credit Act Regulations of May 31, 2006. This legislation regulates what information should be sent to the National Credit Register as well as what information should be submitted to debt counselors. Under Part D, 24 (7), a consumer is considered to be over-indebted if his or her total monthly debt payments exceeds the balance derived by deducting the minimum living expenses from the net income.

B.3. Cooling-off Period

Unless explicitly waived by the consumer in writing, there should be a cooling-off period associated with all credit products.

The right of withdrawal is enshrined in Article 6 of the Distance Marketing of Financial Services Directive. According to the provisions, the consumer has the right to withdraw from a contract without penalty and without giving any reasons. The periods vary with product and are longer for insurance contracts and pension products, which involve long-term savings and may be subject to distribution systems such as "multi-level selling," which are often associated with high-pressure sales tactics. The period of withdrawal typically begins with the conclusion of the contract and is usually in the range of *two weeks* (14 calendar days as stated in the EU Directive).

The length of the cooling-off period should relate to the type of financial product being sold and should not apply to market-sensitive products such as foreign exchange, money market instruments, transferable securities, and financial future contracts, swaps and options. The right to withdrawal (cooling off) does not apply to credit intended for land property or for mortgages.

B.4. Linked Products and Bundling Clauses

Whenever a non-bank credit institution contracts with a merchant as a distribution channel for its credit contracts, no bundling, tying or other exclusionary dealings should be permitted.

Cross-selling that constitutes bundling or tying can have positive demand and supply-side effects. However bundling may also hamper competition and customer mobility. Bundling is the sale of

⁵⁹ Guarantors are excluded.

two goods together. Firms bundle for several reasons, such as economies of scope, price discrimination, demand management or leverage of market power into other market segments. Positive effects on demand exist when the price of bundled/tied services is lower for consumers than for unbundled goods and if convenience is increased. Bundling is not *per se* anti-competitive: it only becomes anti-competitive if market power is leveraged to the detriment of competitors. However bundling can be used by financial institutions to reduce competition and limit consumer choice, especially if there is a condition to purchase good B together with a good A (for instance, a mortgage contract together with payment insurance). Furthermore bundling can increase pricing by obscuring costs for consumers and rendering price comparisons impossible. However consumer protection can be used to avoid market power abuse by dominant players.⁶⁰

Bundling that limits consumer choice is often widespread in markets with weak competition enforcement and should therefore be evaluated when conducting diagnostic reviews of consumer protection. Two criteria are important for consideration: (i) the limitation of consumer choice and (ii) whether other competitors are hindered. In the EU, bundling and tying practices in competition policy are found in Article 81 and Article 82 of the EC Treaty.

B.5. Advertising and Sales Materials

- a. Non-bank credit 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. Non-bank credit 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. Several directives in Europe hold non-bank credit institutions responsible for the content of their public announcements, such as the EU Directive on the Distance Marketing of Consumer Financial Services 2002/65/EC and the EU Directive on Misleading and Comparative Advertising 2006/114/EEC. Furthermore, the EU Directive on Credit Agreements for Consumers 2008/48/EC (Article 9 on pre-contractual information) mandates what information has to be included in contracts with consumers. In the US, provisions can be found in the TILA of 1968.

Other important provisions include the Unfair Commercial Practices Directive 2005/29/EC, which sets out misleading practices (Article 6, 7) and illustrates them with 23 examples in the Annex, and establishes aggressive practices (Article 8, 9) with 8 examples in the Annex.

B.6. General Practices

Disclosure and sales practices should be included in the non-bank credit institutions' code of conduct and monitored by the supervisory authority.

⁶⁰ Bakker, M. R. and Alexandra Gross, *Development of Non-bank Financial Institutions and Capital Markets in European Union Accession Countries*, World Bank Working Paper No. 28, 2004

The Unfair Commercial Practices Directive explicitly states in Article 10 that unfair commercial practices may be controlled through codes of conduct. Further, there can be recourse to out-of-court settlement, but the latter shall not be seen as equivalent to judicial or administrative recourse. Once a code of conduct exists, non-bank credit institutions should bind themselves to fair disclosure and sales practices.

B.7. Disclosure of Financial Situation

- a. The regulator or supervisor should publish annual public reports on the development, health, strength and penetration of the non-bank credit institutions, either as a special report or as part of the disclosure and accountability requirements under the law governing it.**
- b. Non-bank credit institutions should be required to disclose their financial information to enable the general public to form an opinion with regards to the financial viability of the institution.**

Non-bank credit institutions encompass consumer finance companies (including credit card companies), leasing firms,⁶¹ mortgage lenders and pawn shops or credit cooperatives.

It differs from country to country whether these institutions are under the supervision of the banking regulator. In some countries, lending to consumers is considered to be a banking activity and a license is needed to be able to conduct it. In other countries, consumer finance companies fall out of the scope of the supervision of the banking regulator. Therefore, it depends on the country whether non-bank credit institutions are covered in the banking regulator's report.

In Europe, not all national supervisors collect statistical information on products provided by non-bank financial institutions that provide credit. The European Credit Research Institute collects these data only for a sub-sample of the countries.⁶² Also the typology of lenders differs. It is a good practice that the supervision of non-bank credit institutions also requires the publication of annual reports.

C. Customer Account Handling and Maintenance

C.1. Statements

- a. Unless a non-bank credit institution receives a customer's prior signed authorization to the contrary, the non-bank credit institution should issue, and provide the customer with, a monthly statement regarding every account the non-bank credit institution 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.**

⁶¹ Leasing is captured in the good practices where it is allowed to be directly provided to private persons for purposes other than professional (i.e. consumption purposes).

⁶² With different classifications for each country, the information is available for Belgium, Germany, Spain, France, Italy, UK, Poland, US (as revolving and non-revolving credit), and Japan.

- 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 non-bank credit institution should notify a customer of long periods of inactivity of any account of the customer and provide 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.

See annotation of good practice C.1 for banking institutions.

C.2. Notification of Changes in Interest Rates and Non-interest Charges

Customers of a non-bank credit institution should be notified in writing by the non-bank credit institution 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 number of days in advance of the effective date of the change.

See annotation of good practice C.2 for banking institutions.

C.3. Customer Records

A non-bank credit institution should maintain up-to-date records in respect of each customer of the non-bank credit institution 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 non-bank credit institution to the customer;
- e. A copy of all correspondence from the customer to the non-bank credit institution 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 non-bank credit institution completed, signed and submitted to the non-bank credit institution 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 non-bank credit institution; and
- 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.

See annotation of good practice C.3 for banking institutions.

C.4. Debt Recovery

- a. **No non-bank credit institution, agent of a non-bank credit institution or third party should employ any abusive debt collection practice against any customer of the non-bank credit institution, 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 non-bank credit institution, 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 non-bank credit institution when the credit agreement giving rise to the debt is entered into between the non-bank credit institution and the customer.**
- c. **No debt collector should contact any third party about a non-bank credit institution 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.**

See annotation of good practice C.7 for banking institutions.

D. Privacy and Data Protection

D.1. Confidentiality and Security of Customers' Information

Customers of non-bank credit institutions have a right to expect that their financial transactions are kept confidential. The law should require non-bank credit institutions 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 personally identifiable information, that is, any information about an identified or identifiable individual, is protected under several international statutes. These include the OECD Guidelines on the protection of privacy and trans-border flows of personal data (Article 2 'Scope of Guidelines') and the UN Guidelines concerning computerized personal data files adopted by the General Assembly on 14 December 1990 (Section A, minimum guarantees that should be provided in national legislations).

Other important statutes are included in the EU Directive on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of such data 1995/46/EC (Chapter 1, Article 1-3); the COE Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No.108, the 28 January 1981, Chapter 1 'General Provisions'); and the APEC Privacy Framework (Part ii, 'Scope').

Technical security is also demanded under the above guidelines and directives. The OECD Guidelines for the Security of Information Systems and Networks: Towards a Culture of Security offer a more detailed guideline on technical security.

In the US, the FTC issued the Standards for Safeguarding Customer Information (2002), which obligates financial institutions to hold customer information secure and confidential.⁶³

D.2. Credit Reporting

For a full description of Good Practices for Credit Reporting, see Annex II.

E. Dispute Resolution Mechanisms

E.1. Internal Complaints Procedure

Complaint resolution should be included in the non-bank credit institutions' code of conduct and monitored by the supervisory authority.

Consumer finance companies should have written policies in place for dispute settlement just as banks. A written policy will hold the non-bank credit institution liable for the announced policy. This policy should offer contact points for the consumer that are accessible during business hours without undue waiting times, state in plain language the main steps of customer dispute resolution, provide firm and reasonable timelines, guarantee fairness in handling the customer dispute, state the coordination with any ombudsman and/or supervisory authority, and explain in plain language the consumer's rights in the process. Consumer dispute settlement should not lead to unreasonable costs in terms of time and money for the consumer.

E.2. Formal Dispute Settlement Mechanisms

- a. A system should be in place that allows consumers to seek affordable and efficient third-party recourse, which could be an ombudsman or tribunal, in the event the complaint with the non-bank credit institution is not resolved to their satisfaction in accordance with internal procedures.**
- b. The role of an ombudsman or equivalent institution vis-à-vis consumer complaints should be made known to the public.**
- c. The ombudsman or equivalent institution's impartiality and independence from the appointing authority and industry should also be assured.**
- d. The enforcement mechanism of the decisions of the ombudsman or equivalent institution and binding nature of the decision on banks should be established and publicized.**

See annotation of good practice E.2 for banking institutions.

⁶³ See <http://www.ftc.gov/os/2002/05/67fr36585.pdf>

F. Consumer Empowerment

F.1. Information Resources for Consumers

- a. Consumers, especially the most vulnerable, should have access to sufficient resources to enable them to understand financial products and services available to them.**
- b. Financial regulators should seek to improve consumer awareness of financial products and services by devising, publishing and distributing independent information on the costs, risks and benefits of such products and services.**
- c. Non-governmental organizations should be encouraged to provide consumer awareness programs to the public regarding financial products and services.**

See annotation of good practice G.3 for banking institutions.

F.2. Measuring Financial Capability

- a. Policymakers, industry and advocates should understand the financial capability of various market segments, particularly those most vulnerable to abuse.**
- b. In order to ensure that financial consumer protection, education and information initiatives are proportionate and appropriate, and in order to measure the effectiveness of those initiatives over time, the financial capability of consumers should be measured periodically by way of large-scale market research that gets repeated from time to time.**

For these purposes, the term “financial capability of consumers” means the ability to manage money, keep track of finances, plan ahead, choose appropriate financial products and services and stay informed about financial matters.

See annotation of good practice G.5 for banking institutions.

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Annex I - Private Pensions Sector

Introduction

Over the last twenty years, governments worldwide have moved from state-funded public pension schemes to private pension plans. The private plans may be funded by employers or by individual contributions. Funding may be mandatory or optional and the plans may be based on defined contribution or defined benefits. However, regardless of their structure, all private pension plans raise critical issues related to consumer protection. Pensions plans are typically the largest single financial investment for households and in the absence of strong consumer protection, households may find their plans are inadequate to meet their income needs.

Unlike other parts of the financial sector, work on consumer protection in private pensions remains at a developmental stage. For other segments of the financial sector—banking, securities, insurance—over thirty years of experience with privately owned and managed financial institutions have generated a clear set of good practices for protection of financial consumers. These good practices are well established and reasonably uniform across developed and the more advanced emerging markets.

However, there has been no explicit or implicit agreed international approach on good practices for private pensions and thus, policymakers have had very little guidance.⁶⁴ Based on the lack of an agreed approach, the good practices for private pensions have relied on the good practices in use for the insurance sector (especially related to life annuities) and the securities sector (for investment funds). Recent experience indicates that other issues are also important for consumer protection in private pensions. It is clear that the policies and practices applicable for consumers as they make crucial decisions on short- and medium-term investments are not sufficient when households should make the long-term decisions involved in pensions.

In addition to the consumer protection issues that arise for insurance and securities, consumer protection for private pensions relates to five key issues: (1) flexibility and options for consumers to switch among service providers, (2) the terms and conditions of investment contracts with asset managers, (3) treatment of the decumulation (pay-out) phase, (4) controls over fees paid to asset managers, and (5) levels of competition among service providers of pension plans.

Supervision is also a key issue for consumer protection in private pensions. Pensions may be supervised by the prudential supervisor, or the taxation authorities, or a combination thereof (e.g. Australia and Canada). However, there are examples of the securities supervisor having responsibility for pensions (e.g. in Russia) or a combination of separate insurance and securities supervisors (e.g. Turkey). With only a few exceptions (such as the US), private pensions are not insured by the state. Thus no established international approach or even range of approaches currently exists.

⁶⁴ The International Organisation of Pensions Supervisors (IOPS) has only been in existence for a few years. The European Union has a Directive covering occupational arrangements, but not individual accounts. IOPS/OECD have also produced some broad supervisory guidelines. The US has the ERISA rules and related supervisory structures.

Ongoing global research, including by the World Bank, has started to identify good practices on private pensions, which will have the positive effect of forcing some consensus on the issues highlighted above. However, more time will be needed before a comprehensive set of good practices on private pensions can be presented. In the interim, the good practices noted below provide a useful starting point—and one that has been tested on two consumer protection diagnostic reviews (for Russia and Croatia) prepared by the World Bank.

A. Consumer Protection Institutions

A.1. Consumer Protection Regime

The legal system should recognize and provide for clear rules on consumer protection in the area of private pensions and there should be adequate institutional arrangements for the implementation and enforcement of consumer protection rules:

- a. There should be specific legal provisions in the law which creates an effective regime for the protection of consumers who deal with pension entities.**
- b. There should be a general consumer agency or specialized agency, responsible for the implementation, oversight and enforcement of consumer protection, and data collection and analysis (including complaints, disputes and inquiries).**
- c. The legal system should provide for a role for the private sector, including voluntary consumer protection organizations and self-regulatory organizations**

A.2. Other Institutional Arrangements

- a. The judicial system should provide credibility to the enforcement of the rules on consumer protection.**
- b. The media and consumer associations should play an active role in promoting consumer protection**

B. Disclosure and Sales Practices

B.1. General Practices

- a. There should be disclosure principles that cover the consumer's relationship with the pension entity in all three stages of such relationships: pre-sale, point of sale, and post-sale.**
- b. There should be clear rules on solicitation and issuance of pension products.**
- c. The information available and provided to the consumer should clearly inform the consumer of the choice of accounts, products and services.**
- d. The pension entity should be legally responsible for all statements made in marketing and sales materials related to their products.**

B.2. Advertising and Sales Materials

- a. Pension entities should ensure their advertising and sales materials and procedures do not mislead the customers.
- b. All marketing and sales materials should be easily readable and understandable by the average public.

B.3. Key Facts Document

A key-facts document should be presented by the pension entity before the employee signs a contract, disclosing the key factors of the pension scheme and its services.

B.4. Special Disclosures

- a. Pension entities should disclose information relating to the products they offer, including investment options, risk and benefits, fees and charges, restrictions on transfers, fraud protection over accounts, fee on closure of account.
- b. Clients should also be provided with meaningful, written information on essential terms of the agreement with the pension entity
- c. Information on planned fee changes should be notified to the consumer a “reasonable period” before the date of change.
- d. Pension entities should inform upfront the nature of any guarantee arrangements covering the pension products.
- e. Customers should be informed upfront on the time, manner and process of disputing information on the statements and transactions

B.5. Professional Competence

Marketing personnel and officers selling and approving transactions should have sufficient qualifications and competence, depending on the complexities of the products they sell.

B.6. Know Your Customer

Pension entities should examine important characteristics of the customer such as their age and financial position before recommending a particular pension product.

B.7. Disclosure of Financial Situation

- a. The regulator or supervisor should publish annual public reports on the development, health and strength of the pensions industry either as a special report or as part of their disclosure and accountability requirements under the law governing it.
- b. All pension entities should disclose information regarding their financial position and profit performance.

B.8. Contracts

There should be consistent contracts for pension products and the contents of a contract should be read by the customer or explained to the customer before it is signed.

B.9. Cooling-off Period

There should be a reasonable cooling-off period associated with any voluntary pension product.

C. Customer Account Handling and Maintenance

C.1. Statements

- a. Timely delivery of periodic statements and alerts pertaining to the accounts and at frequencies and in the form agreed between the customer and pension entity, should be made.
- b. Customers should receive a regular streamlined statement of their account that provides the complete details of account activity in an easy-to-read format, making reconciliation easy.
- c. Customers should have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period.
- d. When customers sign up for paperless statements, the pension entity should ensure that the consumer is able to read and understand such online statements.

D. Privacy and Data Protection

D.1. Confidentiality and Security of Customer's Information

Customers of pension entities have a right to expect that their financial activities will have privacy from federal government scrutiny and others. The law should require pension entities to ensure that they protect, the confidentiality and security of customer's information against any anticipated threats or hazards to the security or integrity of such information; and against unauthorized access to or use of customer information that could result in substantial harm or inconvenience to any customer

D.2. Sharing Customer's Information

- a. Pension entities should inform the consumer of third-party dealings for which the pension entity should share information regarding the consumers account.
- b. Pension entities should explain how they use and share customers personal information and they should be committed not to sell or share account or personal

- information to outside companies that are not affiliated with the pension entity for the purpose of telemarketing or direct mail marketing.
- c. The law should allow a customer to stop or "opt out" of certain information sharing and the pension entities should inform the customers of their option.
 - d. The law should prohibit the disclosure of information of customers by third parties.

D.3. Permitted Disclosures

- a. The law should state specific procedures and exceptions concerning the release of customer financial records to government authorities.
- b. The law should provide for penalties for breach of secrecy laws.

E. Dispute Resolution Mechanisms

E.1. Internal Dispute Settlement

- a. An internal avenue for claim and dispute resolution practices within the pension entity should be required by the supervisory agency.
- b. Pension entities should provide designated employees available to consumers for inquiries and complaints.
- c. The pension entity should inform its customers of the internal procedures on dispute resolution.
- d. The regulator or supervisor should provide oversight on whether pension entities comply with their internal procedures on consumer protection rules.

E.2. Formal Dispute Settlement Mechanisms

A system should be in place that allows consumers to seek third-party recourse in the event they cannot resolve an issue with the pension entity

F. Guarantee Schemes and Safety Provisions

F.1. Guarantee Schemes and Safety Provisions

Guarantee and compensation schemes are less common in the pensions sector than in banking and insurance. There are more likely to be broader fiduciary duties and custodian arrangements to ensure the safety of assets.

- a. There should be a basic requirement in the law that pension entities should seek to safeguard pension fund assets.
- b. There should be adequate depository or custodian arrangements in place to ensure that assets are safeguarded

G. Consumer Empowerment

G.1. Financial Education through the Media

- a. Press and broadcast media should be encouraged to actively cover issues related to retail financial products.**
- b. Regulators and/or industry association should provide sufficient information to the press and broadcast media to facilitate analysis of issues related to financial products and services.**

G.2. Information Resources for Consumers

- a. The government and regulators should devise, publish and distribute information resources for investors that seek to improve consumer awareness and knowledge.**
- b. Public education on consumer awareness in the area of pensions by non governmental organization should be encouraged.**
- c. The government should develop a strategy for including financial education as part of the general education curriculum.**

Annex II - Credit Reporting Systems

Credit reporting is a crucial component of modern financial systems and a critical driver for efficiency in lending to consumers. Efficient and accurate credit reporting systems provide valuable benefits for consumers, enabling them to obtain increased access to credit at favorable terms and conditions and the ability to monitor their levels of debt to ensure that they avoid high levels of indebtedness. Transparency of credit reporting systems is important for good governance of these systems and, at the same time, controls should exist to protect personal data. Credit reporting is becoming an ever more pervasive activity that affects a consumer's economic life by determining access and terms of financial services. Public policy should find the right balance between consumer data protection and the economic rationale of processing personal information. As of August 2008, there were no international good practices for consumer protection in credit reporting, although a number of international data protection instruments provide useful guidance (see Table 8).

Table 8. Overview of Consumer Protection Regulation for Credit Reporting Systems

Institution	Laws, Regulations, Directives and Guidelines
UN	Art. XII of the Universal Declaration of Human Rights Art. 17 of the International Covenant on Civil and Political Rights of 16 December 1966 UN Guidelines concerning Computerized Personal Data Files adopted by the General Assembly on 14 December 1990
OECD	Guidelines for the Security of Information Systems and Networks: Towards a Culture of Security, 2002 Recommendation of the Council concerning guidelines governing the protection of privacy and trans-border flows of personal data, adopted by the Council 23 September 1980 Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, 1980 Declaration of Transborder Data Flows, 1985 Ministerial Declaration on the Protection of Privacy on Global Networks, 1998
World Bank	Principles and Guidelines for Credit Information Systems, 2004
APEC	APEC Privacy Framework, 2005
EU	Directive on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of such data, 1995/46/EC Directive on Credit Agreements for Consumers, 2008/48/EC repealing Directive 87/102/EEC
COE	Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, the 28 January 1981, Entry into force: 1.10.1985) and Explanatory Report Amendment to Convention ETS No. 108 allowing the European Communities to accede (adopted 15 June 1999; Entry into force: after acceptance by all Parties) and Explanatory Memorandum Additional Protocol to Convention ETS No. 108 on Supervisory Authorities and Trans-border Data Flows and Explanatory Report (ETS No. 181, opened for signature on 8 November 2001)

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	Recommendation No. R(2002) 9 on the protection of personal data collected and processed for insurance purposes (18 September 2002) and Explanatory Memorandum Recommendation No. R(90) 19 on the protection of personal data used for payment and other operations (13 September 1990) and Explanatory Memorandum
EU-US	Safe Harbor Framework, 2000
US	Fair Credit Reporting Act, 1970 Fair and Accurate Credit Transaction Act, 2003

Several initiatives are underway to further improve credit reporting. The Western Hemisphere Credit and Loan Reporting Initiative (WHCRI)⁶⁵ defines policies and actions for sub-regional integration of credit and loan reporting systems. To date, assessments have been conducted in eight countries in Latin America (Brazil, Chile, Colombia, Costa Rica, Mexico, Peru, Trinidad and Tobago, and Uruguay.)⁶⁶ It is planned that WHCRI will eventually cover all the countries of the Latin America Region. In addition, the International Finance Corporation (as part of the World Bank Group) has developed the Global Credit Bureau Program, which supports credit bureaus in more than 100 countries worldwide.⁶⁷ The World Bank Group has also established the African Credit Reporting and Financial Information Infrastructure Program to improve the quality and availability of data on borrowers in Africa. A similar program is also envisaged for the Middle East.

In addition the World Bank Group, in cooperation with the BIS, has advanced plans to define a set of international standards for credit reporting, which will include extensive coverage of consumer protection and financial literacy as an instrument to facilitate credit reporting systems. The exercise is expected to start in the coming months.

In addition, in June 2008 the European Commission set up an Expert Group on Credit Histories to identify barriers to the access to, and exchange of, credit information within the EU and to put forward recommendations to the Commission.⁶⁸ The report of the Expert Group is due by May 2009.

The good practices in this Annex are based upon international practices regarding data protection policies. These include the basic principles by the United Nations, Organization for Economic Co-operation and Development, the Asia-Pacific Economic Cooperation, the European Union and the Council of Europe. Alternative regulatory models have been taken into account through the comparison of credit reporting regulation in 100 countries.⁶⁹ Thus the good practices have been

⁶⁵ See www.whcri.org

⁶⁶ The project is conducted by the World Bank together with the Centro de Estudios Monetarios Latinoamericanos (CEMLA).

⁶⁷ International Finance Corporation, *Credit Bureau Knowledge Guide*, 2006

⁶⁸ See http://ec.europa.eu/internal_market/finservices-retail/credit/history_en.htm

⁶⁹ See for example Jentzsch (2007), which found that 80 out of 100 countries in the sample had constitutional privacy protection clauses, 35 had data protection laws, 7 credit reporting laws, 6 statutory codes and 22 industry codes of conduct. See Nicola Jentzsch, *The Economics and Regulation of Financial Privacy: An International Comparison of Credit Reporting Systems*, 2007.

developed based upon a broad range of policy and academic literature, cross-country law evaluation as well as practical experience from a number of country-based analyses.⁷⁰

The good practices focus on the issues of privacy and data protection, which lay at the core of sound consumer protection in credit reporting systems. For a full and detailed review of consumer protection in credit reporting systems, other issues are also important and should be considered. In particular, credit reporting systems should be subject to appropriate oversight with sufficient enforcement authority. Other issues include the viability of consumer protection institutions, questions of adequate disclosure to consumers and accessibility to credit bureaus, reporting and handling of customer information, dispute resolution mechanisms, consumer awareness and empowerment, and competition among credit bureaus.

A. Privacy and Data Protection

A.1. Consumer Rights in Credit Reporting

Laws and regulations should require basic consumer rights. These rights may include:

- a. The right of the consumer to consent to information-sharing based upon the knowledge of the institution's information-sharing practices.**
- b. The right to access the credit report of the individual, subject to proper identification of that individual and free of charge (at least once a year).**
- c. The right to know about adverse action in credit decisions or less-than-optimal conditions/prices due to credit report information. In this process, consumers should be provided with the name and address of credit bureau.**
- d. The right to be informed about all inquiries within a period, such as six months.**
- e. The right to correct factually incorrect information or to have it deleted.**
- f. The right to mark (flag) information that is in dispute.**
- g. The right to decide if the consumer's credit information (for purposes not related to the granting of credit) can be shared with third parties.**
- h. The right to have sensitive information especially protected (not included in the credit report), such as race, political and philosophical views, religion, medical information, sexual orientation or trade union membership.**
- i. The right to reasonable retention periods such as those for positive information (for example, at least two years) and negative information (for example, 5-7 years.)**
- j. The right to have information kept confidential and with sufficient security measures in place to prevent unauthorized access, misuse of data, or loss or destruction of data.**

Informed consent is the necessary pre-condition for creating transparency of information processing. Article 3 of the UN Guidelines regarding files states that "the purpose which a file is to serve and its utilization in terms of that purpose should be specified, legitimate and, when it is established, receive a certain amount of publicity or be brought to the attention of the person concerned." This ensures that all processed personal data is relevant to the purpose stated, there

⁷⁰ See also Margaret J. Miller (ed.), *Credit Reporting Systems and the International Economy*, Massachusetts Institute of Technology, 2003.

are no secret databases, and no data is used without the consent of the data subject. This right can be waived in the context of sharing information with a public credit register for supervisory purposes. However, the consumer should at least be informed about that type of information sharing and be referred to the articles in law applicable to it.

Around the world, this good practice for consumer protection is reflected in most data protection laws, such as the EU Data Protection Directive (implemented in the 27 EU Member States and some Latin American countries), many non-European laws,⁷¹ the COE Convention, as well as in the Openness Principle 12 of the OECD Guidelines on the Protection of Privacy.

The right to access personal information and in this context the credit report and score, is justified by Principle 4 of the UN Guidelines ("interested-person access" that demands proper proof of identity). "Access and correction rights" are provided by all major international data protection instruments (UN, OECD, EU and APEC principles). More advanced credit reporting regimes are implementing the requirement to explain to consumers the credit score (for instance, as is done in the US). This can be implemented in a cost-effective way but should be tailored to the development stage of the industry. However where the industry just started to operate, companies should not be over-burdened with access requirements and a transition period would be warranted.

Access to information by individuals, who are subject to collection of the information, is granted in most countries that have data protection provisions.

Access is the pre-condition to dispute resolution and correction. These basic rights are established in all major international instruments relevant for data protection, such as in the UN Guidelines (Principles 2 and 4) and OECD Guidelines on the Protection of Privacy (Individual Participation Principle 13). In the latter, it is stated that the individual has the right to obtain confirmation whether information has been stored from the data controller and to have it communicated within a reasonable manner and timeframe. Access is also mentioned in the World Bank's Principles for the Operation of Credit Information Systems (Principles B1.4 and 25).⁷² In addition, the cost of correction shall be borne to the data controller (UN Principle 4). According to Jentzsch (2007), the right to have information corrected is laid out in more than 40 countries.

The right to block information in cases of dispute is also common in credit reporting regimes. Between 2005 and 2006, this right was implemented in 25 countries. Blocked or flagged information indicating a dispute is an additional quality signal for creditors. The right to know to whom the information was disclosed is implemented in 44 countries (Jentzsch, 2007).

The consent principle in many cases includes the provision that individuals can stop information processing for purposes unrelated to credit granting, such as marketing. Marketing restrictions (in terms of opt-in or opt-out) are in place in 25 countries. Opt-out increases marketing participation rates and depends on the framing of the question.⁷³ For instance, APEC's Principle IV Uses of Personal Information) demands that information is only used for the purposes of collection stated beforehand, except where the individual has given consent.

⁷¹ For example, the US Fair Credit Reporting Act (1970) and the Consumer Reporting Employment Clarification Act (1998)

⁷² See <http://www1.worldbank.org/finance/html/creditreporting/Principles.htm>

⁷³ See Bellman, S., E. J. Johnson, G. L. Lohse, "On site: to opt-in or opt-out?: It depends on the question, *Communications of the ACM*, Volume 44 , Issue 2 25-27, February 2001.

The right to have sensitive information specifically protected is part of most major international instruments, such as the OECD reports (Comment to Guidelines on the Protection of Privacy), UN Principles (Principle 5), the COE Convention (Article 6), the EU Data Protection Directive (Article 8), and the EU-US Safe Harbor Framework. Legal controls against anti-discrimination are also discussed in the World Bank Principles (Principle 15). Only the APEC Privacy Framework does not demand extra protection of personal sensitive information.

The major international instruments also demand a limitation on information collection and distribution, e.g. OECD Guidelines on the Protection of Privacy (Principle 10), UN Principles (Principle 3), APEC Privacy Framework (Principle III Collection Limitation), and the COE Convention. The latter, for instance, states in Article 5 e. that data are “preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored.” Companies have an incentive to excessively collect personal information that can lead to sub-optimal market results.⁷⁴ Therefore it is good practice to find time limits that set a limitation on data collection.

International averages for negative information are seven years for bankruptcy, five years for lawsuits, and six years for judgments for a sub-sample of the surveyed countries. The World Bank typically proposes a range of five to seven years (WB Principle 17). According to the above principle of purpose specification, positive information should not be stored excessively as it loses its predictive power.

The duty of financial institutions to inform customers in case of adverse action in credit decisions is now part of US and European legislations. According to Jentsch (2007), only seven countries had this clause, partly because it was only recently introduced in Europe in the Article 9 of the Consumer Credit Directive.

According to the Directive, creditors should inform the consumer immediately and free of charge about the result of database consultation and the particulars of the databases consulted. The additional duty to inform consumers about less than optimal conditions is part of US regulations.⁷⁵ Informing consumers *only in adverse action situations* is not sufficient for adequate data protection.

Also care should be taken to ensure that public sector and private sector credit registries provide the same level of consumer protection on the use of personal data. Both types of information systems provide data that allow for identification of individuals and both should provide the same high quality of protection for consumers of financial services.

⁷⁴ See Taylor, C.R., “Consumer Privacy and the Market for Customer Information”, *RAND Journal of Economics* 35 (4), 631-50, 2004.

⁷⁵ See "risk-based pricing notices", Section 311(a) of the Fair and Accurate Credit Transaction Act of 2003 and Notice of proposed rulemaking for correction of this Act (Fair Credit Reporting Risk-Based Pricing Regulations, 2008).

B. Consumer Empowerment

B.1. Information Resources for Consumers

Financial regulators should devise, publish and distribute information resources for consumers that seek to improve their knowledge of actively managing the credit report.

Education on credit reporting may comprise several activities, such as the key information brochure that explains to consumers privacy choices and their impacts, as well as rights and obligations. Some examples from the FTC are the following:

- Privacy Choices for Your Personal Financial Information
- Building a Better Credit Report
- Credit Repair: Self Help May Be Best
- Disposing of Consumer Report Information? New Rule Tells How

It would be important to help consumers understand that credit financing costs could be reduced once the credit score reflects a better credit risk and how this can be achieved. Education on credit reporting should also include a disclosure of the main factors that have an impact on the credit score. Public information campaigns have been actively pursued by regulators in the US, South Africa, and the UK.

B.2. Awareness of Credit Reporting

In order to ensure that financial consumer protection and educational initiatives are appropriate, it is necessary to measure financial capability with large-scale surveys that are repeated periodically. These surveys should include questions on credit reporting and scoring.

Credit reporting is becoming an ever more pervasive activity in the economy. Therefore, questions about knowledge on credit reporting should be included in financial literacy surveys, in order to be able to better tailor public information campaigns on credit reporting. There is no international predecessor for this good practice.

Annex III – Payment and Remittance Systems

Retail Payment Services and Circuits: Background

The Payments System is the infrastructure established to facilitate the transfer of monetary value between parties.⁷⁶ Its structure and design determine the efficiency with which transaction money is used in the economy, and the risk associated with its use. An efficient National Payments System (NPS) reduces the cost of exchanging goods and services, and is indispensable to the functioning of the interbank, money, and capital markets.

In particular, a wide range of payment instruments is essential for supporting customers' needs in a market economy. A less than optimal supply of payment instruments may ultimately have an impact on economic development and growth. Moreover, the safe and efficient use of money as a medium of exchange in retail transactions is particularly important for the stability of the currency and a foundation of the trust people have in it. The use of retail payment instruments differs in industrialized countries both within and between the countries considered. This is due to a variety of reasons including cultural, historical, economic and legal factors. However, some common trends may be observed, namely: the continued primacy of cash (in volume terms) for face-to-face payments; growth in payment cards use; increased use of direct funds transfers, especially direct debit transfers, for remote payments; and changes in the market arrangements for providing and pricing the retail payment instruments and services delivered to end-users.⁷⁷ This evolution is likely to continue in the future and is expected to influence traditional (especially paper-based) instruments. Over the long term, some of the observed market developments may well alter traditional payment practices and contribute to increased efficiency and convenience in retail payment systems. In a growing number of countries more and more attention is devoted by authorities and market participants to the efficiency and efficacy of production and distribution of payment instruments (including cash).

Remittances are an important component of the NPS and an important source of “income” in many developing economies, and their total value is steadily increasing. At a global level, \$318 billion were officially recorded as remittance payments in 2007, however, given measurement uncertainties, actual flows may be much higher, perhaps by 50 percent or more. Remittances can be defined as cross-border person-to-person payments of relatively low value. They are recurrent payments by migrant workers to support their families home, and the largest source of external financing for developing countries. For some of those countries, remittances can account for as much as a third of the GDP. However, they can be often expensive relative to the low incomes of migrant workers and the rather small amounts sent.

In any market, full information (i.e. transparency) is important because it enables individuals to make informed decisions about which services to use and helps to make the market as a whole more efficient. Transparency, as well as adequate consumer protection, has relevance for the development and improvement of both national payment systems and markets for remittances.

⁷⁶ Annex III was prepared by the World Bank's Payment Systems Development Group.

⁷⁷ For an analysis of the trends in retail systems and services, see World Bank Group, *Payment Systems Worldwide: A Snapshot. Outcomes of the Global Payment Systems Survey 2008*, 2008.

International Standards

The G-10 Committee on Payment and Settlement Systems (CPSS) of the Bank for International Settlements (BIS) is the main standard setter in the field of payment systems and has published several reports to guide the actions of authorities and market players over the last 15 years. International Financial Institutions, such as the International Monetary Fund and the World Bank have participated actively in many of these efforts. Also the World Bank is standard setter in the field of international remittances, together with the CPSS-BIS.

In the field of retail systems, several CPSS reports have expanded on the issue of payment services and circuits, with regard also to consumer protection and transparency.⁷⁸

In particular, a 2003 CPSS Report⁷⁹ identifies and explores policy issues for central banks and considers the possible contribution of central banks towards furthering certain policy goals in this area. Central banks are currently involved in retail payments in three main ways: (1) in an operational capacity; (2) as payment system overseers, or (3) as catalysts or facilitators of market and regulatory evolution. Even though the involvement of the central bank in retail varies from country to country, the Report suggests that each central bank should examine developments in its markets periodically in the light of some identified policy issues (see below), in order to form a view on whether such issues arise in practice. Where such issues are judged to arise, relevant public authorities (including central banks) may decide to take action aimed at establishing or re-establishing an acceptable balance of the various aspects of safety and efficiency. The public policy goals, the central bank minimum action, and the range of possible additional actions identified in the CPSS Report are summarized in the Boxes below.

Public Policy Goals and Central Bank Actions

Legal and Regulatory Framework

Public Policy Goal A: Policies relating to the efficiency and safety of retail payments should be designed, where appropriate, to address legal and regulatory impediments to market development and innovation.

The central bank should at a minimum:

- a. Review the legal and regulatory framework to identify any barriers to improvements in efficiency and/or safety;
- b. Cooperate with relevant public and private entities so that the legal and regulatory framework keeps pace with the changing circumstances and barriers to improvements in efficiency and/or safety are removed, where appropriate.

The range of possible additional actions could include, depending on the individual central bank's responsibilities, powers and priorities:

⁷⁸ See also Bank for International Settlements, Committee on Payment and Settlements Systems, *Clearing and Settlement Arrangements for Retail Payments in Selected Countries*, September 2000; and *Retail Payment Systems in Selected Countries: a Comparative Study*, September 1999.

⁷⁹ Bank for International Settlements, Committee on Payment and Settlements Systems, *Policy Issues for Central Banks in Retail Payments*, March 2003.

- a. Altering regulations that currently present barriers to improving efficiency and safety, where this is within the central bank's remit and where other public interest arguments do not militate against such action;
- b. Introducing or proposing new regulations, as the central bank's remit allows, where the legal or regulatory framework is insufficient to support increased efficiency and/or safety; and
- c. Offering expert advice to other responsible authorities, for example in the preparation of relevant legislation.

Market Structure and Performance

Public Policy Goal B: Policies relating to the efficiency and safety of the retail payments should be designed, where appropriate, to foster market conditions and behaviors.

The central bank should at a minimum:

- a. Monitor developments in market conditions and behaviors relating to retail payment instruments and services and assess their significance; and
- b. Cooperate with other public or private entities, as appropriate, to foster competitive market conditions and to address any significant public policy issues arising from market structures and performance.

The range of possible additional actions could include, depending on the individual central bank's responsibilities, powers and priorities:

- a. Promoting appropriate standards or guidelines for transparency, in cooperation with relevant public and private sector entities;
- b. Reviewing conditions in the market for cross-border retail payments, with a view to promoting improvements, if such action is warranted; and
- c. Considering and, if appropriate, performing regulatory and/or operational intervention in cases where market forces are judged not to have achieved or not to be likely to achieve an efficient and safe solution.

Standards and Infrastructure

Public Policy Goal C: Policies relating to the efficiency and safety of retail payments should be designed, where appropriate, to support the development of effective standards and infrastructure arrangements.

The central bank should at a minimum:

- a. Monitor developments in security standards, operating standards and infrastructure arrangements for retail payments which the central bank judges to be important for the public interest, and assess their significance;
- b. Cooperate with relevant public and private entities to encourage market improvements in such standards and infrastructure arrangements, where appropriate.

The range of possible additional actions could include, depending on the individual central bank's responsibilities, powers and priorities:

- a. Participating actively in reviewing and developing appropriate standards and arrangements, in cooperation with relevant public and private entities, where the central bank judges its more intensive involvement to be necessary to furthering the goal;

- b. Considering and, if appropriate, performing regulatory and/or operational intervention in cases where market forces are judged not to have achieved or not to be likely to achieve an efficient and safe solution.

Central Bank Services

Public Policy Goal D: Policies relating to the efficiency and safety of retail payments should be designed, where appropriate, to provide central bank services in the manner most effective for the particular market.

The central bank should at a minimum:

- a. Review and, if appropriate, adapt its provisions of settlement services to contribute to efficient and safe outcomes; and
- b. Be transparent in its provision of services.

The range of possible additional actions could include, depending on the individual central bank's responsibilities, powers and priorities:

- a. Reviewing the relevant non settlement services it provides and considering their adaptation to changing market conditions; and
- b. Reviewing policies on access to central bank services and on pricing.

The CPSS Report has been prepared in the light of the trends in retail payment markets in the G-10 countries and Australia. It is likely that, in developing countries, central banks and other private and public entities need to take a proactive role and explore carefully the possibility of using the additional actions.⁸⁰

The 2006 CPSS Report on payment system reform⁸¹ underlines that payment system development is a complex process that should be principally needs-based. Successful reforms depend on parallel development of the banking system, institutional arrangements for payment services and payment infrastructure and should therefore be a cooperative effort, involving stakeholders from, for example, the banking sector and regulatory agencies. The report includes 14 guidelines which aim at giving assistance and advice on the planning and implementation of reforms. Several aspects of consumer protection are involved, in particular in Guidelines 9, 10 and 11.

In the first place, a transparent and comprehensive legal framework is generally considered the basis for a sound and efficient payment systems. Laws on transparency and security of payment instruments, terms and conditions, antitrust legislation for the supply of payment services, and legislation on privacy, for example, significantly impact the soundness of the broad legal framework on payments systems.

Guideline 9. Collaborate for effective oversight: effective payment system oversight by the central bank often requires collaborative arrangements with other authorities.

⁸⁰ See also Cirasino, Massimo, Jose A. Garcia, Mario Guadamillas and Fernando Montes-Negret, *Reforming Payments and Securities Settlement Systems in Latin America and the Caribbean*, World Bank, 2007.

⁸¹ Bank for International Settlements, Committee on Payment and Settlement Systems, *General Guidance for National Payment System Development*, January 2006.

Although the central bank has oversight responsibility for the national payment system, it may not be the only public agency with influence on the system. Other authorities and regulatory agencies can influence the efficiency and competitiveness of payment service markets, the risk management practices and customer relations of various financial institutions providing services in them. These agencies include:

- a. banking supervisors that assess and regulate the financial risk management practices of financial institutions participating in market arrangements and providing payment services to end users;
- b. securities regulators and self-regulatory organizations (SROs) that deal with the customer service and prudential risk management practices of securities brokers and fund managers and with some aspects of the business conduct of securities organizations;
- c. competition regulators that focus on anti-competitive business practices of various types of business organizations, including those that provide payment infrastructure services;
- d. treasury or finance ministry departments that sponsor the legislation and other statutory instruments underpinning the legal and regulatory framework for the payment system; and
- e. consumer affairs agencies that influence contract terms for payment accounts and services and protect the contractual rights of customers of their financial institutions [...]

Finally the existence of a wide range of payment instruments is essential to support customers' needs in a market economy and improve access to financial services. For these reasons, the efficiency of the retail payments market also relies on the level of consumer confidence and consumer protection.

Guideline 10. Promote legal certainty: develop a transparent, comprehensive and sound legal framework for the national payment system.

The legal framework for a national payment system is the body of law which determines the rights and obligations of parties in the system. It can be established by legislation or other statutory instruments, common law, administrative law, contracts (including system rules), or international treaties and regulations. It also deals with the transfer procedures and resolution of disputes regarding instruments, services, organizational arrangements and governance procedures for transferring and settling obligations with finality. A sound legal framework for the national payment system reduces the legal uncertainty and risk for the participants in payment infrastructures and service markets.

The legal framework involves laws of general applicability (such as property, contract, corporate and insolvency laws) that affect the payment system, as well as those that are specific to it (such as payment legislation, netting laws and clearing house rules). In addition, it includes the legislative and judicial arrangements for establishing, interpreting, adjudicating and enforcing those laws [...]

The oversight function of payments system is currently at the heart of the international debate, and it is emerging as a key factor to ensure proper monitoring of the reliability and efficiency of domestic payment systems. The deployment of an effective payment system oversight function also depends on the level of cooperation between overseers, market players, financial regulators and other authorities. Among the subjects to be involved in the oversight function, Guideline 9 puts the emphasis on competition regulators and customer protection agencies.

Guideline 11. Retail – give more choice to more people: extend the availability and choice of efficient and secure non-cash payment instruments and services available to consumers, businesses and government by expanding and improving retail payment infrastructures

The development of a country's commercial, industrial and even financial sector generally increases demand for greater diversity and use of non-cash retail payment instruments and services. Reform initiatives in retail payments would need to focus, therefore, on enhancing the availability to private and public users of various retail payment instruments and services and on promoting safe and efficient transaction, clearing and settlement service arrangements. These services can only be supplied through reliable, secure and efficient infrastructure arrangements.

Development initiatives for retail transaction systems might need to aim at:

- a. expanding availability of payment instruments, both through the day and over more locations;
- b. widening the range of standardized paper or electronic payment instruments, especially with respect to credit transfer instruments;
- c. improving the security and confidentiality in the transmission of payment information;
- d. establishing legally sound service agreements for providers and users with regard to payment accounts and instruments and system participation; and
- e. improving interoperability among point-of-sale transaction networks for specific types of payment instruments, notably payment card and ATM networks.

For clearing and settlement arrangements, useful development initiatives could involve:

- a. improving interregional payment clearing and settlement through interconnection of regional clearing houses and, if possible, national clearing facilities;
- b. integrated settlement account management systems for regional central bank branches and ultimately the development of a nationwide centralized account administration system; and
- c. setting common standards for particular types of payment instruments, and common clearing house standards and procedures for clearing different types of retail payment instruments.

Important reform initiatives common to all core infrastructures could relate to:

- a. specifying clear policies that ensure equitable access to infrastructure services, particularly with respect to institutions participating directly in the system;
- b. improving transparency of pricing policies, operating rules and procedures and operational and financial risks;
- c. strengthening, where required, risk control and risk-sharing arrangements and the resiliency levels and business contingency plans for network operations; and
- d. reviewing and, if necessary, strengthening governance to reflect the needs of all participating institutions.

As for remittances, transparency is particularly important because the price to the consumer depends on two elements, the exchange rate used and any fees charged; combining these to calculate which service is cheapest is difficult for most consumers. Transparency, as well as adequate consumer protection, is also important because, as low-income migrants in a foreign country, many senders may have difficulties in understanding the local language or in providing

adequate identification to open a bank account, or lack the time and financial literacy to search out and compare different remittance services.⁸²

The 2007 CPSS Report on remittances⁸³ provides an analysis of the payment system aspects of remittances and sets out general principles designed to assist countries in improving the market for remittance services. In particular, General Principle 1 indicates that the market for remittance services should be transparent and have adequate consumer protection. RSPs should therefore be encouraged to provide relevant information about their own services in easily accessible and understandable forms. Authorities or other organizations may want to provide comparative price information. They may also wish to undertake educational campaigns to give senders and receivers sufficient background knowledge to be able to understand the information provided.

General Principle 1. Transparency and consumer protection: the market for remittance services should be transparent and have adequate consumer protection.

In any market, full information – i.e. transparency – is important because it enables individuals to make informed decisions about which services to use and helps to make the market as a whole more efficient. Transparency in the market for remittances is arguably particularly important because the price to the consumer depends on two elements, the exchange rate used and any fees charged, and combining these to calculate which service is cheapest is difficult for most consumers. Transparency, as well as adequate consumer protection, is also important because, as low-income migrants in a foreign country, many senders may have difficulties in understanding the local language or in providing adequate identification to open a bank account, or lack the time and financial literacy to search out and compare different remittance services. General Principle 1 is therefore that the market for remittance services should be transparent and have adequate consumer protection. RSPs should therefore be encouraged to provide relevant information about their own services in easily accessible and understandable forms. Authorities or other organizations may want to provide comparative price information. They may also wish to undertake educational campaigns to give senders and receivers sufficient background knowledge to be able to understand the information provided.

It is important to note that the General Principles for International Remittance Services *de facto* defines standards for all payment services. Also they have been formally endorsed by the G-8, the G-20 and the Financial Stability Countries and countries have been urged to adopt them. In addition, the multilaterals and development banks that participated into the Task Force that produced the General Principles are releasing a Guidance report for the application of these standards in the last quarter of 2008. The report will include detailed guidelines to implement, among others, General Principle 1 on transparency and consumer protection.

Implementing the Standards

Several institutions provide assistance to countries to implement international standards in the field of payment, remittance and securities settlement. Extending beyond 12 years, the World Bank's Payment Systems Development Group has supported implementation of payment and remittance systems reforms in over 100 countries. In this regard, it is worth mentioning the work

⁸² See Cirasino, Massimo "The Committee on Payment and Settlement Systems and the World Bank General Principles on International Remittance Services", *AccessFinance*, Issue No. 11, May 2006.

⁸³ Bank for International Settlements, Committee on Payment and Settlement Systems and the World Bank, "General Principles for International Remittance Services", January 2007.

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managed under the umbrella of regional initiatives, such as the Arab Payments Initiative (API), the Commonwealth of Independent States Initiative (CISPI), the South Asia Payments Initiative (SAPI), the Southern African Development Community (SADC) payment project, and the Western Hemisphere Payments and Securities Settlement Forum (WHF). In the field of consumer protection, for example, in 2008 the World Bank will release the first price database for international remittance services. The tool is intended to promote international transparency by tracking the evolution of the business environment for remittances worldwide, in particular in the area of remittance transaction costs. The survey covers initially 114 corridors from 14 send markets, representing over 50 percent of global remittances. It will be released on a biannual basis.