Consultation Paper 158
7th June 2024

CUMA welcomes the opportunity to provide feedback on the Consumer Protection Code Consultation Paper (CP158).

Who are we?

The Credit Union Managers Association (CUMA) was established in 2002 and is the representative body for professional senior management teams of credit unions in Ireland. The association provides its members with various professional development training and networking opportunities wherein they are enabled to share their own credit union experiences, accomplishments, difficulties and best practices with a community of like-minded sector professionals. CUMA engages with a wide range of stakeholders and industry professionals in a constant pursuit of excellence in standards of credit union management. We remain committed to the enhancement and reform of the credit union sector to ensure we move forward by providing access to high quality training and expert advice.

Introduction

The financial services sector plays a central role in the functioning of the economy, and Ireland's well-developed financial sector is a testament to this. It provides consumers with access to a broad range of products and services, ensuring that their financial needs are met in diverse and dynamic ways. However, as we look to the future, it is clear that the financial services landscape is set to undergo significant transformation over the next decade. This transformation will be driven by a confluence of factors including technological innovation, the imperatives of climate change, and the evolving expectations and needs of both consumers and businesses.

The evolving landscape of financial services presents both opportunities and challenges. On the one hand, advancements in technology and innovation have the potential to make financial markets more efficient, accessible, and customer-centric. On the other hand, these changes also introduce new risks and complexities that need to be managed effectively to protect consumers.

The proposed revisions to the Consumer Protection Code, as outlined in CP158, are timely and necessary to ensure that consumer protection keeps pace with these rapid developments. CUMA proposes an extension of the Consumer Protection Code to include state monopolies and duopolies like Irish Gas and Irish Water.

The revised Consumer Protection Code aims to build on the robust framework established in 2006. By enhancing the existing principles and requirements, the revised Code seeks to provide clearer guidance to firms, ensuring they can meet their obligations while adapting to the evolving market dynamics. This response underscores the importance of a balanced approach that promotes high-quality competition among resilient and well-managed firms, while safeguarding the interests of consumers.

The proposed revisions to the Consumer Protection Code aim to enhance the financial services market's functionality, improve consumer protection, support adaptation to change and innovation, and build trust and confidence. By building on the existing framework, the revised Code seeks to provide clarity and predictability for firms while managing cost implications.

Q1. Do you have any comments on the Securing Customers' Interests Standard for Business, Supporting Standards for Business or the draft Guidance on Securing Customers' Interests set out in Annex 5?

The Securing Customers' Interests Standard for Business, Supporting Standards for Business, and the draft Guidance on Securing Customers' Interests are comprehensive efforts to strengthen consumer protection in Ireland.

They emphasize fairness, transparency, and customer-centricity, which are essential for building consumer trust and ensuring sustainable business practices.

The success of these initiatives will depend on effective implementation, ongoing stakeholder engagement, and consistent regulatory oversight.

Q2. Do you have any comments on our expectation that firms offering MiFID services and firms offering crowdfunding services should consider and apply the Guidance on Securing Customers' Interests?

The Guidance on Securing Customers' Interests is a set of principles aimed at ensuring firms act in the best interests of their customers. When it comes to firms offering MiFID (Markets in Financial Instruments Directive) services and crowdfunding services, the application of this guidance is particularly pertinent due to the nature of these services and the potential risks involved for customers.

1. Alignment with Regulatory Requirements:

- MiFID II has a strong focus on investor protection and market transparency. The Guidance on Securing Customers' Interests aligns well with these objectives, emphasizing the need for firms to act honestly, fairly, and professionally in accordance with the best interests of their clients.

2. Enhanced Transparency and Disclosure:

- Both MiFID service providers and crowdfunding platforms should prioritise clear and transparent communication with their clients. This includes providing comprehensive information about the products and services offered, the associated risks, and any fees or charges. Ensuring that customers have all the necessary information to make informed decisions is critical.

3. Suitability and Appropriateness Assessments:

- For MiFID services, the guidance can enhance the processes around assessing the suitability and appropriateness of investment products for clients. Firms must ensure that the financial products they recommend or provide are suitable for the individual client's risk profile and investment objectives.

- Crowdfunding platforms should similarly assess whether the investment opportunities they present are appropriate for their customer base, particularly considering the higher risk nature of many crowdfunding investments.

4. Conflict of Interest Management:

- Both types of firms need robust policies to identify, manage, and disclose conflicts of interest. This is vital to maintain trust and ensure that client interests are not compromised by the firm's own interests.

5. Customer Support and Complaint Handling:

- Providing high-quality customer support and having effective complaint handling mechanisms are essential. Firms should ensure that customers can easily reach out for assistance and that their complaints are addressed promptly and fairly.

6. Education and Awareness:

- Firms should invest in educating their customers about the financial products and services offered, including the risks involved. An informed customer is better equipped to make decisions that align with their financial goals and risk tolerance.

7. Continuous Improvement and Monitoring:

- It is important for firms to continuously monitor their practices and seek improvements to better secure customers' interests. Regular reviews and updates to policies and procedures in response to changing regulatory requirements and market conditions are crucial.

CUMA agrees that the expectation that MiFID service providers and crowdfunding firms consider and apply the Guidance on Securing Customers' Interests is understandable. It encourages these firms to prioritise customer protection, enhance transparency, ensure the suitability of products and services, manage conflicts of interest effectively, provide excellent customer support, and foster customer education. All these measures contribute to building a trustworthy and robust financial market environment.

Q3. Do you have any comments on the proposed Code enhancements with regard to digitalisation?

The proposed enhancements to the Consumer Protection Code with regard to digitalisation are a significant step towards ensuring consumer protection in an increasingly digital financial services environment.

CUMA notes the following on these enhancements:

Emphasis on Digital Inclusivity

1. Accessibility and Inclusivity:

- Enhancements should ensure that digital financial services are accessible to all consumers, including those who may not be tech-savvy or have disabilities. This includes designing user-friendly interfaces and providing alternative access methods for those who cannot use digital platforms easily.

2. Bridging the Digital Divide:

- There should be measures in place to bridge the digital divide, ensuring that consumers from all demographics, including older individuals and those in rural areas, have equal access to digital financial services.

Enhanced Transparency and Disclosure

1. Clear and Transparent Communication:

- Firms must ensure that all digital communications, including terms and conditions, fees, and risks associated with products and services, are clearly presented. This includes using plain language and providing key information upfront.

2. Real-Time Information:

- Providing consumers with real-time information on their transactions and account status helps them make informed decisions and manage their finances effectively.

Data Protection and Privacy

1. Robust Data Security Measures:

- With digitalisation, the importance of data protection cannot be overstated. Firms should implement robust cybersecurity measures to protect consumer data from breaches and unauthorised access.

2. Transparency in Data Usage:

- Consumers should be informed about how their data is being collected, stored, and used. Clear consent mechanisms should be in place, allowing consumers to control their personal information.

Consumer Empowerment and Education

1. Digital Literacy Programs:

- Implementing programs to enhance digital literacy among consumers is essential. Educating consumers on how to safely use digital financial services, recognise and avoid scams, and manage their online financial activities can significantly reduce risks.

2. User Support:

- Providing comprehensive support for users facing difficulties with digital services is crucial. This includes accessible customer service channels, help guides, and tutorials.

Enhanced Regulatory Oversight

1. Monitoring and Compliance:

- Enhanced regulatory oversight to ensure compliance with the new standards is necessary. This includes regular audits, inspections, and monitoring of digital financial services.

2. Adaptability to Technological Changes:

- The regulatory framework should be adaptable to rapidly changing technological advancements. This ensures that the regulations remain relevant and effective in protecting consumers as new digital financial services and technologies emerge.

Specific Areas of Focus

1. Fraud Prevention:

- Enhancements should include specific measures for fraud detection and prevention in the digital space. This includes advanced analytics and AI-based systems to identify and mitigate fraudulent activities.

2. Complaint Resolution:

- Establishing efficient and transparent processes for resolving complaints related to digital financial services is essential. Consumers should have access to quick and fair resolution mechanisms.

Consumer Choice and Control

1. Easy Opt-Out Mechanisms:

- Consumers should have the ability to easily opt out of digital services if they prefer traditional methods. This respects consumer choice and provides them with control over how they interact with financial services.

2. Personalisation and Customisation:

- Offering personalised and customisable digital experiences can enhance consumer satisfaction. This includes tailoring services to meet individual consumer needs and preferences.

CUMA believes that proposed enhancements to the Consumer Protection Code regarding digitalisation are a proactive approach to safeguard consumer interests in the digital age. By focusing on accessibility, transparency, data protection, consumer education, regulatory oversight, and consumer empowerment, these enhancements can create a safer and more inclusive digital financial ecosystem.

Q4. What are your views on the proposed requirements on banks where they are changing or ceasing branch services?

The proposed requirements for banks in the Consumer Protection Code regarding the changing or ceasing of branch services are crucial for protecting consumers during transitions that could significantly impact their access to banking services.

The following points are CUMA's views on these proposed requirements:

Ensuring Adequate Notice

1. Advance Notice Period:

- Banks should provide ample advance notice to consumers before changing or ceasing branch services. A minimum notice period of several months allows consumers time to make alternative arrangements.

2. Clear Communication:

- Notifications should be clear, detailed, and communicated through multiple channels (e.g., mail, email, in-branch notices, and online platforms) to ensure all affected customers are informed.

Transparency and Rationale

1. Reason for Changes:

- Banks should transparently explain the reasons for changing or ceasing branch services. This transparency helps build trust and understanding among consumers, who may otherwise feel uncertain or anxious about the changes.

2. Impact Assessments:

- Conducting and sharing impact assessments on how the changes will affect different consumer groups, especially vulnerable ones, can help in planning appropriate mitigation strategies.

Support for Affected Customers

1. Alternative Arrangements:

- Banks should provide clear information on alternative banking options, including nearby branches, online and mobile banking services, and telephone banking. They should also consider establishing partnerships with other banks and financial service providers, including credit unions, to ensure continuity of services on an agency basis.

2. Personalised Assistance:

- Offering personalised assistance to those who may struggle with the transition, such as the elderly or those without internet access, is essential. This could include in-person consultations, dedicated helplines, or community workshops to educate customers on new banking methods.

Accessibility and Inclusivity

1. Digital Literacy Training:

- For customers who are unfamiliar with digital banking, banks should provide training and support. This includes workshops, tutorials, and one-on-one assistance to help customers navigate online and mobile banking services.

2. Special Provisions for Vulnerable Customers:

- Banks should identify vulnerable customers and provide tailored support to ensure they continue to have access to essential banking services. This may involve maintaining certain critical services in some branches or offering mobile banking units.

Maintaining Service Continuity

1. Phased Implementation:

- Gradually phasing out branch services rather than abrupt closures can help minimize disruption. This phased approach allows customers to adapt to new banking methods progressively.

2. Enhanced Remote Services:

- Enhancing remote banking services, such as improving mobile banking apps, extending call center hours, and offering video banking services, can help compensate for reduced physical branch access.

Regulatory Oversight and Compliance

1. Monitoring Compliance:

- Regulatory bodies should closely monitor banks' compliance with these requirements to ensure that customer interests are being adequately protected during branch service changes or closures.

2. Regular Reporting:

- Banks should be required to regularly report on the measures they are taking to mitigate the impact on consumers, including statistics on customer transitions to alternative services and feedback received from affected customers.

Community Impact

1. Assessing Community Needs:

- Banks should assess the specific needs of the communities affected by branch changes or closures and tailor their mitigation strategies accordingly. In rural areas, where branch closures can have a more significant impact, additional support measures might be necessary.

2. Stakeholder Engagement:

- Engaging with their customers in the first instance, and determining and revealing usage patterns over time, should be the first priority in every move. Engagement with local community leaders, consumer advocacy groups, and other stakeholders can help banks obtain a greater understanding of the broader impact of their decisions and develop more effective support strategies.

3. Financial institutions proposing to disengage

The proposed requirements in the Consumer Protection Code for banks changing or ceasing branch services are essential for safeguarding the interests of some consumers with an exclusive dependency on face-to-face service delivery. The Central Bank requirements emphasize the importance of adequate notice, transparent communication, personalized support, accessibility, phased implementation, regulatory oversight, and community engagement.

The issue of the sustainability of in-community service-offering overall should not be divorced from such engagement either. It is unfortunate that no study has been undertaken as to the reason-why banks such as KBC and Ulster Bank left Ireland, or why bank and other branches have been withdrawn or closed. It would be wise not to place sole emphasis upon regulating how banks or others may withdraw from communities, without determining the reason why this action was taken or is proposed, in the first place.

There needs to be a greater emphasis, in the Code, on long-term sustainability of service-offerings to all customer-stakeholders.

Q5. Do you have any comments on the 'informing effectively' proposals?

The 'informing effectively' proposals in the Consumer Protection Code are designed to ensure that consumers receive clear, accurate, and timely information about financial products and services.

The 'informing effectively' proposals in the Consumer Protection Code focus on ensuring that consumers receive clear, transparent, timely, and accessible information about financial products and services.

By emphasizing plain language, full disclosure, timely updates, multichannel communication, consumer education, personalised support, feedback mechanisms, and special considerations for all ~~vulnerable~~ consumers, these proposals aim to empower consumers to make well-informed financial decisions.

Implementing these proposals effectively can enhance consumer trust and protection in the financial services sector.

There needs to be a comprehensive and consistent Programme of Consumer Education, driven through schools to address the knowledge imbalance between the consumer and the vendor. A planned and structured Consumer Education Programme would be a really effective means of communicating effectively in a time of increasing complexity and rapid change.

We need also to acknowledge the changing face of Ireland. For very many of our population, English is not their primary language. We are becoming a multi-lingual society. This is what the future will look like. This diversity needs to find reflection in the Consumer Protection Code.

There is an absence of consideration of the Assisted-Decision Making (Capacity) Act 2015, as amended, from the proposed Code. The enabling elements of this Act needs to find reflection in the Code.

Q6. Are there any specific challenges regarding implementation of the new Informing Effectively Standard for Business?

Implementing the new Informing Effectively Standard for Business in the Consumer Protection Code involves overcoming several challenges related to clarity, transparency, timeliness, multichannel communication, consumer education, monitoring, and support for vulnerable consumers.

By adopting strategic solutions such as investing in plain language training, using integrated communication platforms, adhering to accessibility standards, and leveraging consumer feedback, businesses can effectively meet these challenges and enhance consumer protection.

Q7. Do you have any comments on the proposed enhanced disclosure requirements for mortgages?

The proposed enhanced disclosure requirements for mortgages in the Consumer Protection Code are a commendable step towards ensuring greater transparency and consumer protection in the mortgage market.

The proposed enhanced disclosure requirements for mortgages in the Consumer Protection Code aim to improve transparency, understanding, and consumer protection in the mortgage market.

By focusing on plain language disclosures, comprehensive cost and risk information, timely and accessible communication, detailed comparisons, consumer support and education, and regular updates, these requirements can help consumers make better-informed decisions regarding their mortgages.

Implementing these measures effectively will require collaboration between regulators, lenders, and consumer advocacy groups to ensure that all consumers benefit from improved mortgage disclosures.

Q8. Do you have any comments on the proposed enhancements, or any further suggestions on the CCMA? (Code of Conduct on Mortgage Arrears)

The proposed enhancements to the CCMA in the Consumer Protection Code are essential for providing stronger protections and support for borrowers facing mortgage arrears.

By focusing on clearer communication, early intervention, support for vulnerable borrowers, improved restructuring options, financial education, and enhanced monitoring, these enhancements can significantly improve the management of mortgage arrears.

Further suggestions, such as developing a comprehensive support framework, utilising data analytics, periodic reviews, and strengthening legal protections, can further enhance the effectiveness of the CCMA in safeguarding borrowers' interests.

Q9. Are there other actions that firms could take to ensure that customers understand the status of unregulated products and services and the potential impact for consumers?

Ensuring that customers understand the status of unregulated products and services and their potential impact is crucial for informed decision-making and consumer protection.

Here are several actions that firms could take to enhance customer understanding in this regard:

1. Clear Disclosure Statements

1.1. Prominent Warnings:

- **Action:** Place clear and prominent warnings on all marketing and communication materials related to unregulated products and services.
- **Implementation:** Use bold, large fonts and distinct colours to highlight the unregulated status and potential risks prominently on brochures, websites, and advertisements.

1.2. Standardised Disclosure Language:

- **Action:** Develop standardised language for disclosing the unregulated status and associated risks.
- **Implementation:** Use consistent phrasing across all platforms and documents to avoid confusion. For example, “This product is not regulated by [relevant authority]. It may carry higher risks than regulated products.”

2. Detailed Explanatory Documents

2.1. Comprehensive Fact Sheets:

- **Action:** Provide detailed fact sheets that explain what being "unregulated" means, including the lack of protections and guarantees.
- **Implementation:** Create easily accessible fact sheets available in both digital and print formats, detailing how the absence of regulation impacts the product's risk profile.

2.2. FAQs Section:

- **Action:** Develop an extensive FAQ section specifically addressing unregulated products and services.
- **Implementation:** Include questions like "What does unregulated mean?", "What are the risks?", and "How does it affect me?" on the company website and in product literature.

3. Staff Training and Customer Support

3.1. Employee Training Programs:

- **Action:** Train staff to clearly explain the status of unregulated products and their implications.
- **Implementation:** Conduct regular training sessions and provide staff with scripts and FAQs to ensure they can effectively communicate risks and details to customers.

3.2. Dedicated Support Teams:

- **Action:** Establish dedicated customer support teams to handle queries related to unregulated products.
- **Implementation:** Create a specialized team trained to address concerns and provide detailed explanations about unregulated products, ensuring customers have a reliable source of information.

4. Enhanced Digital Tools

4.1. Interactive Risk Assessment Tools:

- **Action:** Develop online tools that help consumers assess the risks associated with unregulated products.
- **Implementation:** Create calculators or risk assessment quizzes on the company website that guide users through the potential risks and impacts of unregulated products.

4.2. Video Tutorials:

- **Action:** Produce video content explaining the nature and risks of unregulated products.
- **Implementation:** Use engaging visuals and clear language in short videos posted on social media, the company's website, and YouTube to reach a broader audience.

5. Regulatory Comparisons

5.1. Side-by-Side Comparisons:

- **Action:** Offer side-by-side comparisons of regulated and unregulated products.
- **Implementation:** Use comparison charts to highlight the differences in regulatory oversight, consumer protections, and potential risks, making it easier for customers to understand the implications.

5.2. Case Studies and Examples:

- **Action:** Provide real-life case studies and examples illustrating the potential impact of investing in unregulated products.
- **Implementation:** Share stories and scenarios where consumers faced issues due to the lack of regulation, helping to contextualise the risks.

6. Regular Communication and Updates

6.1. Ongoing Communication:

- **Action:** Regularly update customers on any changes or new information related to unregulated products.
- **Implementation:** Send out newsletters, email updates, and SMS alerts to keep consumers informed about any developments that might affect their investments in unregulated products.

6.2. Feedback Mechanisms:

- **Action:** Implement mechanisms for customers to provide feedback and ask questions about unregulated products.
- **Implementation:** Use surveys, feedback forms, and dedicated helplines to gather customer input and address their concerns promptly.

7. Legal and Financial Advice

7.1. Partner with Advisors:

- **Action:** Partner with legal and financial advisors to provide customers with access to professional advice.
- **Implementation:** Offer sessions or referrals to qualified professionals who can help consumers understand the implications of investing in unregulated products.

7.2. In-House Advisory Services:

- **Action:** Establish in-house advisory services to assist customers in understanding the full impact of their decisions.
- **Implementation:** Employ or contract with financial advisors who can offer impartial advice and help customers navigate their options.

By implementing these actions, firms can significantly enhance their customers' understanding of unregulated products and services, helping them make more informed decisions and mitigating potential risks.

Clear disclosure, comprehensive education, proactive support, and accessible resources are key components in ensuring consumers are fully aware of the implications of investing in unregulated financial products.

Q10. What other initiatives might the Central Bank and other State agencies consider to collectively protect consumers from financial abuse including frauds and scams?

The Central Bank and other state agencies can undertake a variety of initiatives to collectively protect consumers from financial abuse, frauds, and scams.

The following are some comprehensive strategies that could be considered:

1. Enhanced Public Awareness Campaigns

1.1. Nationwide Education Programs:

- Initiative: Launch nationwide education campaigns focusing on financial literacy and fraud prevention.

- Implementation: Use multiple channels (TV, radio, social media, community workshops) to educate the public about common scams, warning signs, and prevention measures.

1.2. Dedicated Fraud Awareness Month:

- Initiative: Designate a specific month for intensive fraud awareness activities.

- Implementation: Partner with banks, consumer protection agencies, and community organizations to host events, webinars, and disseminate educational materials.

- Formal Education: Embed Consumer Education as a subject in all second-level schools.

2. Advanced Technology and Data Analytics

2.1. Real-Time Monitoring Systems:

- Initiative: Develop and implement real-time transaction monitoring systems to detect suspicious activities.

- Implementation: Utilise AI and machine learning algorithms to identify patterns indicative of fraud and alert consumers and financial institutions immediately.

2.2. Centralised Fraud Database:

- Initiative: Create a centralized database for reporting and tracking fraud incidents.

- Implementation: Financial institutions and consumers can report scams, which are then logged in a shared system accessible to all participating entities to enhance collective intelligence and response.

3. Strengthened Regulatory Framework

3.1. Stricter Compliance Requirements:

- Initiative: Implement stricter compliance requirements for financial institutions regarding fraud detection and prevention.

- Implementation: Mandate regular audits, compliance checks, and robust internal controls to ensure adherence to anti-fraud protocols.

3.2. Comprehensive Legislation:

- Initiative: Introduce comprehensive legislation specifically targeting financial fraud and consumer protection.

- Implementation: Ensure laws cover all aspects of financial abuse, provide clear definitions, and establish severe penalties for perpetrators.

4. Enhanced Collaboration and Information Sharing

4.1. Multi-Agency Task Force:

- Initiative: Establish a multi-agency task force dedicated to combating financial fraud.

- Implementation: Include representatives from the Central Bank, law enforcement, consumer protection agencies, and financial institutions to coordinate efforts and share information.

4.2. International Cooperation:

- Initiative: Enhance international cooperation to combat cross-border financial fraud.

- Implementation: Engage with international regulatory bodies and law enforcement to share intelligence and collaborate on tracking and prosecuting fraudsters operating across borders.

5. Improved Support Systems for Victims

5.1. Victim Support Hotline:

- Initiative: Establish a dedicated hotline for victims of financial fraud.

- Implementation: Provide immediate assistance, advice, and support, including connecting victims with legal and financial counselling services.

5.2. Financial Redress Mechanisms:

- Initiative: Develop financial redress mechanisms to help victims recover lost funds.

- Implementation: Create a fund or insurance scheme that compensates victims of fraud, financed by contributions from financial institutions and government support.

6. Continuous Professional Training

6.1. Training for Financial Industry Staff:

- Initiative: Mandate regular training for bank employees and financial advisors on fraud detection and prevention.

- Implementation: Offer certification programs and continuous professional development courses focused on identifying and responding to fraud.

6.2. Law Enforcement Training:

- Initiative: Provide specialised training for law enforcement personnel on financial fraud investigation techniques.

- Implementation: Collaborate with financial experts to develop training modules and workshops for police and other law enforcement agencies.

7. Consumer Empowerment and Tools

7.1. Fraud Alert Systems:

- Initiative: Implement systems that allow consumers to set up fraud alerts on their accounts.

- Implementation: Enable consumers to receive real-time alerts for suspicious activities through SMS, email, or mobile app notifications.

7.2. Secure Online Platforms:

- Initiative: Promote the use of secure online banking platforms and tools.

- Implementation: Ensure financial institutions adopt advanced security measures, such as multi-factor authentication, encrypted transactions, and secure login protocols.

8. Public Reporting and Transparency

8.1. Regular Fraud Reports:

- Initiative: Publish regular reports on the state of financial fraud and scams.

- Implementation: Provide transparency about the prevalence and types of fraud, the effectiveness of preventative measures, and case studies to educate the public and stakeholders.

8.2. Consumer Fraud Forums:

- Initiative: Organise forums and workshops where consumers can learn about fraud trends and share their experiences.

- Implementation: Facilitate discussions and knowledge sharing between consumers, experts, and regulators to foster a community-driven approach to fraud prevention.

A multifaceted approach involving education, technology, regulatory enhancements, collaboration, victim support, professional training, consumer empowerment, and public transparency is essential for effectively protecting consumers from financial abuse, frauds, and scams.

By implementing these initiatives, the Central Bank and other state agencies can create a robust framework that not only prevents fraud but also supports and empowers consumers in managing their financial security.

Q11. Are there any other circumstances that we should consider within the proposed definition of financial abuse?

Yes. Expanding the definition of financial abuse within the Consumer Protection Code to encompass a broader range of circumstances can enhance consumer protection.

In CUMA's opinion, the following are some additional circumstances that could be considered:

1. Coercive Control

Definition: Coercive control involves exerting power and control over an individual's financial resources as a means of manipulation or abuse.

Example: Restricting access to financial resources, controlling spending decisions, or forcing someone to take on debt against their will.

2. Exploitative Practices

Definition: Exploitative practices involve taking advantage of an individual's financial vulnerability for personal gain.

Example: Targeting vulnerable individuals, such as the elderly or those with cognitive impairments, for fraudulent schemes or predatory lending practices.

3. Financial Exploitation by Caregivers

Definition: Financial exploitation by caregivers occurs when a caregiver misuses or steals an individual's financial resources, often in a position of trust.

Example: Embezzling funds from an elderly person's bank account or pressuring them to change their will for personal gain.

4. Identity Theft and Fraud

Definition: Identity theft and fraud involve using someone else's personal or financial information without their consent for fraudulent purposes.

Example: Opening credit accounts in someone else's name, using stolen debit or credit card information, or impersonating someone to access their financial accounts.

5. Deceptive Financial Practices

Definition: Deceptive financial practices involve misleading or deceptive conduct by financial institutions or service providers.

Example: Misrepresenting the terms or risks of a financial product, omitting important information, or engaging in bait-and-switch tactics.

6. Coordinated Abuse Across Multiple Channels

Definition: Coordinated abuse involves orchestrating financial abuse across multiple channels, such as online, over the phone, and in person, to exploit vulnerabilities and evade detection.

Example: Using a combination of email phishing, phone scams, and in-person deception to defraud individuals of their savings.

7. Economic Control in Intimate Relationships

Definition: Economic control in intimate relationships occurs when one partner exerts control over the other's financial resources as a means of power and control.

Example: Forcing a partner to relinquish control of their earnings, limiting access to bank accounts, or preventing them from working outside the home.

8. Financial Neglect

Definition: Financial neglect involves failing to fulfil financial responsibilities or obligations, resulting in harm or detriment to another individual.

Example: Neglecting to pay bills or provide necessary financial support for dependents, leading to financial instability or hardship.

Expanding the definition of financial abuse within the Consumer Protection Code to include these additional circumstances can provide more comprehensive protection for consumers.

By recognising and addressing a broader range of behaviours and situations that constitute financial abuse, regulators and policymakers can better safeguard individuals from exploitation, manipulation, and harm in the financial domain.

9. Internal Fraud Reporting

Make the declaration of Internal Fraud within institutions a mandatory public disclosure and enable the Central Bank to fine firms for repeat offences.

10. Assisted Decision Making Capacity Act 2015

While enabling in very many respects, there are very many opportunities opened up for persons to be abused. Little or no consideration was given to consumer protection in drafting this Act. The capacity of the Decision Support Service is extremely restricted. Reporting of suspicions of abuse is not catered for, and no protection is afforded to staffs of financial services providers for such reporting.

Q12. What are your views on the proposed amendments to the Consumer Protection Code in relation to consumers in vulnerable circumstances? Do you have any comments on the draft Guidance on Protecting Consumers in Vulnerable Circumstances?

The proposed amendments to the Consumer Protection Code in relation to consumers in vulnerable circumstances and the draft Guidance on Protecting Consumers in Vulnerable Circumstances are crucial steps towards ensuring fair treatment and adequate protection for individuals facing unique challenges.

The proposed amendments to the Consumer Protection Code and the draft Guidance on Protecting Consumers in Vulnerable Circumstances represent positive steps towards ensuring that vulnerable individuals receive the support and protections they need in navigating the marketplace.

However, we repeat our warnings and misgivings as outlined earlier, specifically in relation to the opportunities for exploitation provided under the Assisted Decision Making Capacity Act 2015 (See point 10 in previous section).

The absence of protection for financial services staffs in the area of Coercive Control reporting (See point 1 in previous section) is another serious gap in the area of protection of vulnerable members.

The Workplace Relations Commission case in which, in July 2022, the Permanent TSB was forced to pay compensation to a deaf customer for refusing to "let her use a sign language interpreter to change her online banking password over the phone" and whereby the FLAC representative stated that "….the bank's classification of her client as "vulnerable" was an "affront" to her client and her client's sense of independence posed, and poses challenges to a financial institution's safeguarding of vulnerable persons and to the maintenance of vulnerable persons registers. This is not addressed in the Code, and is a serious deficiency in practical terms.

By recognising vulnerability, providing a legislative framework for professional staffs to fully discharge their duties and obligations, providing tailored support for consumers, empowering consumers, and continuously evaluating and improving protective measures, regulators can enhance consumer well-being and promote financial inclusion for all.

Q13. Is the role of the trusted contact person clear? What more could a Trusted Contact Person do?

While the role of the trusted contact person is generally clear in terms of facilitating communication and providing protection against financial exploitation, there are opportunities to expand their responsibilities to encompass broader support and advocacy for the customer's well-being.

By empowering the Trusted Contact Person to take on a more proactive and holistic role, financial institutions can better serve their customers' needs and ensure their overall welfare is safeguarded.

Q14. Recognising the role of EU consumer protections concerning climate and sustainability, do you have any comments on the proposed Code protections relating to climate?

The proposed Code protections relating to climate are an important step towards integrating environmental considerations into consumer rights and protections. Here are some comments on these proposed protections:

1. Environmental Disclosure Requirements

1.1. Transparency and Accountability:

- Requiring businesses to disclose the environmental impact of their products and services promotes transparency and accountability.

- Consumers can make more informed purchasing decisions based on the environmental footprint of the products they buy.

1.2. Standardised Reporting Formats:

- Standardised reporting formats make it easier for consumers to compare the environmental performance of different products.

- Consistent metrics and labels help consumers understand the environmental implications of their choices.

2. Sustainable Product Design and Manufacturing

2.1. Eco-Design Standards:

- Setting eco-design standards encourages businesses to incorporate sustainability principles into the design and manufacturing process.

- Products that meet these standards are likely to have lower environmental impacts throughout their lifecycle.

2.2. Extended Producer Responsibility (EPR):

- Implementing EPR schemes holds manufacturers accountable for the environmental impact of their products, even after they are sold.

- This incentivises manufacturers to design products that are easier to recycle and dispose of responsibly.

3. Green Consumer Rights

3.1. Right to Repair:

- Granting consumers the right to repair products extends the lifespan of goods, reducing waste and environmental impact.

- Repairability also promotes a circular economy by encouraging resource conservation and minimizing the need for new materials.

3.2. Access to Sustainable Alternatives:

- Ensuring consumers have access to sustainable alternatives empowers them to make environmentally conscious choices.

- This may involve promoting eco-friendly products, supporting local and sustainable businesses, and incentivizing green purchasing behavior.

4. Climate-related Financial Disclosures

4.1. Climate Risk Disclosure:

- Requiring businesses to disclose climate-related financial risks helps investors and consumers assess the long-term sustainability of companies.

- Transparent reporting encourages businesses to manage and mitigate climate risks, promoting financial stability and resilience.

4.2. Green Investment Opportunities:

- Facilitating access to green investment opportunities allows consumers to align their financial choices with their environmental values.

- Investments in renewable energy, sustainable infrastructure, and green technologies contribute to climate mitigation and promote a transition to a low-carbon economy.

5. Consumer Education and Awareness

5.1. Environmental Literacy Programs:

- Investing in consumer education and awareness programs enhances understanding of climate-related issues and fosters sustainable behaviors.

- Educated consumers are better equipped to make environmentally responsible choices and advocate for climate action.

5.2. Promoting Eco-friendly Lifestyles:

- Encouraging eco-friendly lifestyles through public campaigns and incentives promotes sustainable consumption habits.

- Simple actions, such as reducing energy consumption, minimizing waste, and supporting sustainable agriculture, contribute to climate protection on an individual level.

The proposed Code protections relating to climate represent a significant advancement in integrating environmental considerations into consumer rights and protections.

By promoting transparency, sustainable product design, green consumer rights, climate-related financial disclosures, and consumer education, these protections contribute to a more environmentally sustainable and socially responsible marketplace.

Implementing these measures effectively will require collaboration between businesses, regulators, consumers, and other stakeholders to drive meaningful change towards a greener and more sustainable future.

Q15. Do you agree with our approach to including sustainability preferences with existing suitability criteria? Have you any suggestions on how we can ensure all suitability criteria, including those relating to financial circumstances and sustainability preferences, are given an appropriate level of consideration?

Yes, incorporating sustainability preferences into existing suitability criteria in the Consumer Protection Code is a commendable approach that reflects the growing importance of environmental and social considerations in consumer decision-making.

By adopting a comprehensive approach that considers financial circumstances, sustainability preferences, and other suitability criteria, financial institutions can ensure that consumers receive tailored recommendations that align with their values and objectives.

Through enhanced disclosure, training, due diligence processes, and stakeholder engagement, the industry can promote greater transparency, accountability, and consumer empowerment in sustainable investing.

Q16. Are there specific elements of the revised Code that should be tailored to BNPL, PCP, HP and consumer hire providers?

Tailoring specific elements of the revised Consumer Protection Code to Buy Now Pay Later (BNPL), Personal Contract Purchase (PCP), Hire Purchase (HP), and consumer hire providers can help address the unique characteristics and risks associated with these financial products and services.

Here are some specific elements that could be tailored for each category:

1. Buy Now Pay Later (BNPL)

1.1. Clear Disclosure of Terms:

- Require BNPL providers to clearly disclose terms and conditions, including repayment schedules, interest rates, fees, and consequences of late or missed payments.

- Ensure consumers fully understand the financial obligations and potential risks associated with BNPL agreements.

1.2. Responsible Lending Practices:

- Implement responsible lending practices, such as affordability assessments, to ensure consumers can repay their BNPL purchases without experiencing financial hardship.

- Prohibit aggressive marketing tactics that target vulnerable consumers or encourage excessive spending.

1.3. Dispute Resolution Mechanisms:

- Establish effective dispute resolution mechanisms to address consumer complaints and concerns related to BNPL transactions.

- Provide avenues for consumers to seek redress in cases of unfair or deceptive practices by BNPL providers.

2. Personal Contract Purchase (PCP)

2.1. Transparency in Pricing and Fees:

- Mandate transparent disclosure of all costs associated with PCP agreements, including balloon payments, mileage limits, excess wear and tear charges, and early termination fees.

- Ensure consumers understand the total cost of ownership and their financial obligations over the term of the agreement.

- Adequately explain the concept or myth of 0% APR Finance and explain that the cost is essentially built into the cost-of-funds, and ultimately monthly and later costs.

2.2. Fair Valuation of Vehicles:

- Require accurate valuation of vehicles at the end of the PCP term to determine the final balloon payment or purchase price.

- Prevent inflated valuations or unfair depreciation calculations that may disadvantage consumers.

- Provide for an independent valuation of vehicles.

2.3. Consumer Rights at Termination:

- Clarify consumer rights and options at the end of the PCP term, including the right to return the vehicle, purchase it outright, or enter into a new agreement.

3. Hire Purchase (HP)

3.1. Transparency in Pricing and Charges:

- Require clear and comprehensive disclosure of all charges, including interest rates, administration fees, and early settlement penalties, associated with HP agreements.

- Prevent hidden fees or misleading advertising that may obscure the true cost of HP financing.

3.2. Right to Cancel and Return:

- Affirm consumers' right to cancel HP agreements within a specified cooling-off period without penalty.

- Ensure consumers can return goods under HP agreements if they are faulty, not as described, or do not meet quality standards.

3.3. Prohibition of Unfair Contract Terms:

- Prohibit unfair contract terms that may disproportionately disadvantage consumers, such as excessive repossession rights or unilateral modification of terms by the HP provider.

4. Consumer Hire Providers

4.1. Transparency in Pricing and Conditions:

- Mandate clear and transparent disclosure of all terms and conditions, including rental rates, deposit requirements, insurance coverage, and liability provisions, in consumer hire agreements.

- Ensure consumers understand their rights and obligations throughout the rental period.

4.2. Maintenance and Repair Obligations:

- Clarify the responsibilities of both the consumer and the hire provider regarding maintenance, repairs, and insurance coverage for rented goods.

- Ensure consumers are not held liable for normal wear and tear or pre-existing damage to rented items.

4.3. Dispute Resolution and Redress:

- Establish accessible and efficient dispute resolution mechanisms to address consumer complaints and grievances related to consumer hire agreements.

- Provide consumers with recourse to seek compensation or refunds in cases of defective or unsatisfactory rented goods.

Tailoring specific elements of the revised Consumer Protection Code to BNPL, PCP, HP, and consumer hire providers can help mitigate risks, improve transparency, and enhance consumer confidence in these financial products and services.

CUMA would propose further customer safeguards in relation to BNPL and PCP/HP products as follows:-

- Mandatory disclosure of actual product pricing differences and any increased product costs over "cash price" to be included in total cost of credit disclosure.
- Mandatory disclosure of any inducements or commissions paid to the distributor or arrange of such products.

By addressing the unique characteristics and challenges associated with each category, regulators can promote fair and responsible practices that protect consumers' rights and interests.

Q17. Are there other protections within the General Requirements under the revised Code that we should apply to High Cost Credit Providers?

Yes, CUMA notes that applying additional protections from the General Requirements under the revised Consumer Protection Code to High Cost Credit Providers (HCCPs) can help ensure fair treatment and mitigate potential risks for consumers.

Here are some key protections that could be particularly relevant:

1. Transparency and Disclosure Requirements

1.1. Clear and Comprehensive Disclosure:

- Require HCCPs to provide clear and comprehensive disclosure of all terms, fees, charges, and repayment obligations associated with high-cost credit agreements.

- Ensure consumers have access to transparent information about the total cost of credit, including any additional charges or penalties.

1.2. Pre-Contractual Information:

- Mandate the provision of pre-contractual information, such as a representative APR (Annual Percentage Rate), repayment schedule, and total amount payable, to help consumers compare different credit options and make informed decisions.

2. Responsible Lending Practices

2.1. Affordability Assessments:

- Implement robust affordability assessments to ensure consumers can afford the repayments without experiencing financial hardship.

- Require HCCPs to assess the consumer's income, expenses, and existing debts to determine suitability for the high-cost credit product.

2.2. Limits on Total Cost of Credit:

- Set limits on the total cost of credit, including interest rates, fees, and charges, to protect consumers from excessive borrowing costs and prevent predatory lending practices.

3. Cooling-off Period and Right to Cancel

3.1. Cooling-off Period:

- Grant consumers a cooling-off period during which they can cancel the credit agreement without penalty.

- Provide consumers with sufficient time to reconsider their decision and seek alternative financing options if necessary.

3.2. Right to Cancel:

- Affirm consumers' right to cancel the credit agreement within a specified timeframe, typically within 14 days of entering into the contract.

- Ensure consumers are aware of their cancellation rights and how to exercise them effectively.

4. Fair Debt Collection Practices

4.1. Prohibition of Harassment and Intimidation:

- Prohibit HCCPs from engaging in harassment, intimidation, or aggressive debt collection tactics when pursuing repayment from consumers.

- Ensure consumers are treated with respect and dignity throughout the debt collection process.

4.2. Reasonable Repayment Arrangements:

- Require HCCPs to offer reasonable repayment arrangements to consumers who are experiencing financial difficulties and struggling to meet their obligations.

- Provide support and assistance to help consumers manage their debts responsibly.

5. Financial Education and Consumer Awareness

5.1. Financial Literacy Programs:

- Embed Consumer Protection and Financial Literacy as a core subject in all second-level schools and courses.

- Provide translations on-line of the CPC in the main languages (as per the most recent Census of Population) used within the state,

- Promote financial education and literacy programs through short on-line courses, in the main languages of the state's population, to empower consumers to make informed decisions about borrowing and managing their finances.

- Provide resources and guidance on budgeting, debt management, and responsible borrowing practices.

5.2. Consumer Awareness Campaigns:

- Launch consumer awareness campaigns to educate the public about the risks and pitfalls of high-cost credit products.

- Raise awareness about alternative financing options and sources of support for consumers in need of financial assistance.

By applying additional protections from the General Requirements under the revised Consumer Protection Code to High Cost Credit Providers, regulators can strengthen consumer protections and promote responsible lending practices.

These measures aim to enhance transparency, affordability, and consumer empowerment while mitigating the risks associated with high-cost credit products.

Ultimately, the goal is to ensure that consumers have access to fair and sustainable credit options that meet their needs without exposing them to undue financial harm.

Q18. Are there elements of the revised Code that you think should be applied to SMEs?

By extending certain elements of the revised Consumer Protection Code to SMEs, regulators can promote a more equitable and competitive business environment while safeguarding the interests of smaller enterprises. These measures aim to enhance transparency, fairness, and accountability in business-to-business transactions, ultimately contributing to the sustainability and resilience of SMEs in the marketplace.

Q19. Do you have any comments on the change to the definition of "consumer" under the revised Code to include incorporated bodies of less than €5m in annual turnover?

Expanding the definition of "consumer" under the revised Consumer Protection Code to include incorporated bodies with less than €5 million in annual turnover is a significant change that aims to extend consumer protections to a broader range of entities. It also represents a positive step towards extending consumer protections to small businesses.

While this change aims to address the vulnerabilities and risks faced by small enterprises, it also presents challenges in terms of compliance, practical implementation, and stakeholder engagement.

Clear guidance, education, and support will be crucial in ensuring the effective implementation of this expanded definition while balancing the needs of both consumers and businesses.

Q20. Do you have any comments on the proposals to apply an explicit opt-in requirement for gadget, travel, dental and pet insurance only?

The proposal to apply an explicit opt-in requirement for gadget, travel, dental, and pet insurance is a significant regulatory measure aimed at enhancing consumer protection and ensuring informed decision-making in specific insurance sectors.

It demonstrates a commitment to consumer protection and responsible insurance sales practices.

By empowering consumers to actively choose their insurance coverage and promoting transparency and accountability in insurance transactions, regulators can foster trust and confidence in the insurance market while ensuring that consumers' needs and interests are prioritized.

Ongoing monitoring and evaluation of the effectiveness of this regulatory measure will be essential to ensure its successful implementation and alignment with consumer protection objectives.

Q21. Do you have any comments on the proposals to introduce an additional renewal notification for non-life insurance products?

The proposal to introduce an additional renewal notification for non-life insurance products represents a positive step towards enhancing consumer awareness, promoting transparency, enabling competition and facilitating informed decision-making in the insurance market.

Introducing an additional renewal notification for non-life insurance products is a valuable consumer protection measure that promotes transparency, engagement, and empowerment in the insurance market.

By providing consumers with timely and relevant information about their insurance renewals, regulators can help ensure that consumers make informed decisions about their insurance coverage and avoid potential pitfalls such as automatic renewals or inadequate protection.

Ongoing monitoring and enforcement of compliance with the renewal notification requirement are essential to safeguard consumers' rights and interests effectively.

Q22. Do you have any comments on the proposed enhanced disclosures for long-term investment products and pensions?

Enhanced disclosures for long-term investment products and pensions are crucial for promoting transparency, empowering consumers, and fostering trust in financial markets.

Enhanced disclosures for long-term investment products and pensions play a critical role in promoting consumer welfare, financial literacy, and investor protection. By providing clear, comprehensive, and accessible information, regulators can empower consumers to make informed decisions about their long-term financial futures, navigate complex investment choices, and achieve their retirement goals with confidence.

Ongoing monitoring and evaluation of the effectiveness of enhanced disclosure requirements are essential to ensure that consumers derive maximum benefit from the regulatory reforms and that market participants adhere to high standards of transparency and accountability.

Q23. Do you have any comments on the proposed revised requirements for handling of errors or complaints?

The proposed revised requirements for handling errors or complaints are essential for ensuring fair treatment, prompt resolution, and improved consumer satisfaction in financial services.

The proposed revised requirements for handling errors or complaints represent a positive step towards enhancing consumer protection, improving service quality, and promoting trust and confidence in the financial services industry.

By prioritising prompt resolution, fair treatment, and continuous improvement, regulators and financial institutions can ensure that errors and complaints are addressed effectively, contributing to a more resilient and consumer-centric financial ecosystem.

Ongoing monitoring, feedback mechanisms, and transparency are key to the successful implementation and enforcement of the revised requirements.

Q24. Do you have any comments on the proposed changes to the record keeping requirements?

Proposed changes to record-keeping requirements in the Consumer Protection Code are crucial for ensuring compliance, accountability, and effective oversight in the financial services industry.

Proposed changes to record-keeping requirements in the Consumer Protection Code are essential for promoting transparency, accountability, and consumer protection in the financial services industry.

By establishing clear standards for documentation, data integrity, and retention, regulators can enhance compliance monitoring, facilitate effective dispute resolution, and strengthen consumer confidence in the integrity of the financial system.

Financial institutions should prioritise investments in record-keeping infrastructure, data management capabilities, and staff training to ensure compliance with the revised requirements and maintain high standards of regulatory compliance.

A review of CCR data classification and management would be helpful towards ensuring greater compliance with the GDPR.

Q25. Do you have any views on our analysis of the overall benefits associated with the proposals set out in this consultation paper?

The proposed benefits in the Consultation Paper reflect a comprehensive approach to consumer protection in the financial services sector. They balance the need for robust consumer safeguards with the promotion of a dynamic and innovative market environment.

- **Market Functionality and Competition**: Emphasising competition among well-run firms is crucial for consumer choice and service quality. However, ensuring these firms remain sustainably profitable and resilient adds a layer of stability, potentially preventing market disruptions that can harm consumers.
- **Accountability and Ownership**: By driving firms to take ownership of consumer protection, the framework promotes a proactive rather than reactive approach. This shift towards accountability can lead to more consistent and reliable consumer experiences.
- **Adaptability to Innovation**: Supporting change and innovation acknowledges the rapidly evolving financial landscape. However, this support must be balanced with adequate consumer protection measures to mitigate any potential risks.
- **Clarity for Firms**: Providing clear and predictable guidelines helps firms comply more effectively, reducing regulatory breaches and enhancing consumer protection.
- **Trust and Confidence**: Building trust is essential for the financial system's overall health. By ensuring consumers feel protected and confident, the framework can enhance the financial market's stability and growth.

Overall, the Consultation Paper's benefits aim to create a balanced, secure, and dynamic financial services market that prioritises consumer interests while fostering innovation and competition. This holistic approach can significantly enhance consumer trust and the overall effectiveness of the financial system.

Q26. Do you have any views on our analysis of the costs associated with the implementation of the proposals set out in this consultation paper?

The proposals in the revised Code aim to clearly articulate what is required of firms under their existing obligations rather than imposing new burdens. This approach primarily involves enhancing the clarity and articulation of existing consumer protection requirements, making it easier for firms to understand and meet their obligations. While there will be some associated costs, these costs are already implicit in the existing framework and should not be significantly additional. The focus will be on refining and refocusing existing processes rather than creating entirely new ones. The revised Code aligns regulatory consumer protection obligations with the standards responsible firms should naturally adopt for effective risk control, governance, and reputation management.

The revised Consumer Protection Code is designed to build on the established framework, providing clearer guidance and enhancing existing processes. This approach minimises additional burdens on firms while ensuring robust consumer protection, ultimately fostering a more transparent and accountable financial services market.

Q27. What are your views on the proposal for a 12-month implementation period? Should some proposals be implemented sooner?

The proposal for a 12-month implementation period for the revised Consumer Protection Code in Ireland is a balanced approach, taking into account both the need for comprehensive consumer protection and the operational realities faced by financial firms.

The proposed 12-month implementation period is generally sensible, providing firms with sufficient time to adapt to the revised Consumer Protection Code comprehensively.