

Consultation Paper 158  
Central Bank of Ireland  
North Wall Quay  
Dublin 1

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**7 June 2024**

**Re: Consultation Paper on the Consumer Protection Code**

Dear Sir/Madam,

Financial Services Ireland Group (FSI), representing the entirety of the Irish financial services sector through our 160 members, welcomes the opportunity to contribute to the CBI's consultation paper on the Consumer Protection Code Review.

We acknowledge and appreciate the CBI's commitment to fostering robust consumer protection and its ongoing efforts to ensure industry regulations remain relevant and effective.

FSI firmly believes in the vital role a strong Consumer Protection Code plays in safeguarding consumers and ensuring a healthy financial services landscape. While we endorse the review's overall objectives, we would like to express some concerns and their potential impact on both financial institutions and consumers.

Our response will delve into the challenges we anticipate in adhering to the new Code and we will highlight areas where additional clarity is necessary to ensure a smooth transition and the effective application of the new regulations.

Here some of our specific considerations:

- **Implementation Timeframe Challenges:** Navigating the complexities of meeting the 12-month deadline, especially regarding core system functionalities, collateral changes, and adjustments to digital platforms. Clarification on several items is essential, as without it, proceeding with the analysis of requirements, budgets, and internal projects will be challenging.
- **Consistency Across Regimes:** Advocating for alignment between the IAF/SEAR and CPC frameworks and seeking clarity on the applicability of S17A requirements to ensure coherence in regulatory standards. Additionally, it is crucial to fully align S17A Regulations with the conduct standards for Controlled Functions (CFs) under the Individual Accountability Framework (IAF). Breaching S17A Regulations will constitute a "prescribed contravention," allowing the CBI to bring enforcement proceedings against the regulated firm and/or CFs, which could have serious consequences for a firm, its management, and individuals holding a CF designation. Furthermore, the concept of 'reasonable steps' should be included in the S17A Regulations to ensure consistency with the IAF and to reflect what might reasonably be expected of firms and their CF populations.

- **Third-Party Processes Impact:** Assessing the potential ramifications on third parties adapting their processes to comply with new regulations, especially concerning arrears obligations, and the collaborative effort required for smooth integration.
- **Documentation Updates Burden:** Highlighting the substantial workload associated with updating customer-facing collateral and internal documentation to reflect the revised regulations and the need for efficient management of this task.
- **Training and Communication Strategies:** Emphasizing the importance of robust training and communication strategies to ensure seamless integration of regulatory changes across all levels of the organization.
- **Risk of Customer Confusion:** Expressing concerns about potential customer confusion arising from additional information disclosure requirements and the necessity for clear and concise communication to mitigate such risks.
- **Expanded Consumer Definition Challenges:** Addressing the challenges posed by the expanded definition of "consumer" to include smaller incorporated entities and the need for clarity in delineating the scope of consumer protection.
- **Clarity on Terminology:** Seeking clarification on the interchangeable use of "customer" and "consumer" within the draft regulations to ensure consistent interpretation and application of regulatory requirements.

### **Consultation paper questions**

- **2.2 Digitalisation**

#### Proposed Code Enhancements Regarding Digitalisation:

We commend the CBI's proactive approach in addressing digitalisation within the Consumer Protection Code to ensure that digital platforms are user-friendly and supportive of consumers. The proposed enhancements reflect a commitment to safeguarding consumer interests in an increasingly digital financial landscape.

Additional considerations:

1. Comprehensive Testing of New Digital Products: While we acknowledge the importance of rigorous testing before launching new digital products, we suggest that mandating such testing for all products may not always be necessary. It is crucial to strike a balance between ensuring consumer protection and avoiding unnecessary regulatory demands. We recommend providing firms with flexibility to utilize alternative sources of information which are already in use by some firms, such as Voice of Customer data or customer feedback, to ensure effective compliance with regulatory requirements. This inclusion may put an obligation on customer testing being required for all new products. It would be preferable for the guidance to allow some flexibility for other sources to be used.
2. Slowing Down Digital Transactions: The intention to slow down digital transactions to ensure customers review key information is understandable. However, we caution against solely focusing on decelerating the process. Instead, we advocate for simplifying the process to enhance customer comprehension. Excessively slowing down transactions could lead to customer frustration and detract from the overall digital experience. We suggest adopting a balanced approach that prioritizes both consumer protection and user experience.
3. Avoiding Pre-Ticked Boxes: We fully support the initiative to avoid pre-ticked boxes, which can inadvertently influence consumer choices. However, additional clarification is needed regarding the activities that necessitate notification, which would promote consistency in application across the industry.

4. Notification of Withdrawn Access to Financial Records: The proposal to notify customers of withdrawn access to their financial records is commendable. However, practical considerations should be taken into account, especially for digital-only customers who may have alternative means of accessing their information. It is essential to ensure that customers are adequately informed and provided with alternative solutions to mitigate any inconvenience caused by withdrawn access to financial records.
5. Designing Digital Platforms for User-Friendliness: We recommend a simplified approach to ensure accessibility without overwhelming users, particularly on smaller devices. Clear and concise guidance will enhance user experience and facilitate better consumer decision-making.

#### Proposed Requirements on Banks Regarding Changing or Ceasing Branch Services

The proposed requirements on firms changing or ceasing branch services necessitate careful consideration of the impact on consumers, particularly those who rely heavily on in-person banking services. While digitalization offers numerous benefits, including convenience and accessibility, it's essential to ensure that vulnerable consumers are not disproportionately affected by branch closures. Firms should provide adequate support and guidance to customers transitioning to digital channels, considering varying levels of digital literacy.

Also, we understand that the obligations will not extend to closures of a temporary nature, for example refurbishments, emergency works, etc. We would welcome clarification on that in the final publication.

Additionally, it is anticipated that there will be challenges with publishing the entirety of ex-post assessment reports as they may potentially contain company or commercially sensitive information. We would welcome flexibility in this regard in the requirements to allow for the publication of information that is deemed as relevant.

#### • **2.3 Informing Effectively**

While we acknowledge the importance of meeting regulatory compliance, we believe that the standard for effective communication should surpass mere adherence to legal requirements prioritising consumer comprehension and empowerment.

#### Shift from Compliance to Effective Communication:

We endorse the shift from a 'tick-box' approach to compliance towards a duty to present information in a manner that genuinely informs and empowers consumers. However, we recognise that achieving this shift may require internal adjustments within financial service providers (RFSPs), particularly in reviewing and upgrading existing documentation to meet the higher standard of 'Informing Effectively'. Given the potentially wide-ranging impact across various product lines within RFSPs, a risk-based approach to implementation seems prudent.

Prioritising the upgrade of documentation packs with higher consumer impact within the proposed 12-month timeline, followed by subsequent upgrades, could strike a balance between meeting regulatory deadlines and ensuring effective communication with consumers.

#### Novel Approaches to Communication:

In today's digital landscape, where consumers are inundated with information, it's crucial to recognize the need for varied communication methods to capture attention and ensure comprehension. By acknowledging this diversity in communication preferences, we open the door for firms to explore different approaches independently allowing them to consider innovative and effective methods best suited to their audience.

#### Specific Challenges Regarding Implementation of the New Informing Effectively Standard for Business:

The proposed standard S48 123(1) introduces specific challenges, particularly concerning the definition of 'instructions' and the acknowledgment of received instructions. Clarity is needed regarding the types of instructions covered under this standard and the associated time frames— questions arise if these instructions are limited to longer-term actions, such as loan applications, or if they encompass routine business processes (BAU instructions). Further guidance from the CBI on these aspects would provide much-needed clarity for RFSPs navigating implementation challenges. Without clarification on this point, it could have an unintended consequence of causing customer dissatisfaction or frustration due to perceived excessive communications. Therefore, it's important to address these concerns to ensure a smoother implementation process and maintain positive customer experiences.

#### Notice of Changes to Range of Services Provided:

Regarding S 48 (3), we seek clarification on whether the provision extends to the cessation of product lines in addition to branch services. While we appreciate the intention to provide consumers with adequate notice of changes, a four-month notice period for the cessation of a product service may pose practical challenges, potentially necessitating further communication within that timeframe. Moreover, defining what constitutes a 'material change' and ensuring consistency across institutions is crucial to mitigate confusion and ensure compliance with the proposed standard.

#### General Feedback on Informing Customers Effectively:

The proposed requirements represent a paradigm shift towards fostering effective communication and consumer empowerment. However, certain aspects, such as the increased obligations when closing or amending branch services, warrant careful consideration. The proposed increase in the minimum notice period for branch closure or merger, along with the requirement to publish impact assessments, raises practical challenges for RFSPs. Clarity is needed on what constitutes a 'material change', and guidance on the scope of information to be published, considering commercially sensitive information.

- **2.4 Mortgage Credit and Switching**

#### Proposed Enhanced Disclosure Requirements for Mortgages:

We commend the CBI for its efforts to strengthen disclosure requirements for mortgages, aiming to empower consumers with greater transparency and understanding. Clear definitions of mortgage incentives and the issuance of warning statements on mortgage approval in principle, particularly where incentives are involved, are significant steps toward ensuring informed decision-making by consumers.

The proposed enhancements for mortgage calculators and advertisements to disclose the total cost of credit are crucial for enabling consumers to make well-informed choices regarding mortgage products. However, we urge careful consideration to ensure that the disclosure remains clear and concise, avoiding overwhelming consumers with excessive information.

#### Proposed Enhancements and Suggestions for the CCMA:

The proposed enhancements to the Code of Conduct on Mortgage Arrears (CCMA) underscore the CBI's commitment to promoting fair treatment for borrowers experiencing financial difficulties. The requirement for banks to consider a sustainable range of Alternative Repayment Arrangements (ARAs) and updated guidance on what constitutes appropriate resolutions are commendable initiatives.

We support the introduction of additional information requirements for borrowers regarding ARAs and repossessed properties, as well as the implementation of a 12-month validity period for completed

Standard Financial Statements. These measures enhance transparency and ensure borrowers are well-informed throughout the arrear's resolution process.

However, we have concerns regarding the proposed limitation on unsolicited visits outside the Mortgage Arrears Resolution Process (MARP), particularly its potential impact on effective arrears management for certain businesses like Asset Finance. For instance, if a customer fails to meet repayments and refuses engagement, they may continue using a depreciating asset like a vehicle, restricting a lender's ability to repossess it, with visits limited to once every 6 months.

Such limitations could jeopardize effective arrears management and inadvertently impact costs.

We recommend a thorough reassessment of this provision to address unintended consequences for both borrowers and lenders. A broader requirement ensuring communication proportionality, considering individual customer circumstances, would be more suitable.

- **2.5 Unregulated Activities**

We have reservations regarding the statement suggesting that regulated firms may face limitations in offering unregulated products or services.

While it is crucial to mitigate confusion surrounding the regulatory status of products and services, imposing blanket restrictions on regulated firms offering unregulated products may have unintended consequences, including limiting consumer choice and stifling market innovation.

Instead, we suggest exploring alternative measures to ensure that customers understand the status of unregulated products and services and their potential impact. Some potential actions that firms could take include:

- **Enhanced communication:** Firms should provide clear and comprehensive information about the regulatory status of products and services, including prominent risk warnings and explanations of investor protections that may be lost.
- **Consumer education:** Investing in consumer education initiatives can empower customers to make informed decisions about unregulated products, enabling them to understand the associated risks and benefits.
- **Independent advice:** Encouraging customers to seek independent financial advice when considering unregulated products can further support informed decision-making and enhance consumer protection.
- **Transparent marketing practices:** Firms should ensure that marketing materials accurately reflect the regulatory status of products and services, avoiding terminology that implies regulation where it does not exist.

By adopting these measures, firms can uphold consumer protection standards while preserving market competitiveness and consumer choice. We believe that a balanced approach, focused on education and transparency, is essential in addressing potential confusion surrounding unregulated products and services.

- **2.6 Frauds and Scams**

We appreciate the CBI's efforts to address fraud and scams, particularly concerning financial abuse as evidenced by the proposed obligations outlined in the consultation. While we acknowledge the importance of these measures, we believe that additional initiatives and clarifications are necessary to effectively protect consumers and mitigate risks in the financial landscape.

Regarding the proposed definition of financial abuse, we commend its comprehensive scope, encompassing various forms of scams and fraudulent activities. However, we echo the need for further differentiation between authorised and unauthorised fraud events to provide consumers with a clearer understanding of the risks involved. This differentiation is essential, especially given the rising

prevalence of social engineering tactics used by fraudsters to manipulate consumers into authorising fraudulent transactions.

In line with the proposed obligations, we advocate for enhanced collaboration between regulatory bodies, financial institutions, and third-sector organisations to identify and address vulnerabilities, particularly among vulnerable populations such as the elderly. Clear guidance and support mechanisms are crucial to empower consumers to recognise and report instances of financial abuse effectively.

Furthermore, we support the establishment of agreed definitions of frauds and scams across the financial ecosystem to improve consumer awareness and understanding. Key modus operandi, such as investment scams, romance scams, and identity theft, should be clearly outlined to facilitate early detection and prevention efforts.

In addition to the proposed initiatives, we recommend the following measures to collectively protect consumers from financial abuse:

- Strengthening fraud detection and prevention technologies to proactively identify and mitigate emerging risks.
- Investing in comprehensive consumer education and awareness campaigns to empower individuals to make informed financial decisions and recognise fraudulent activities.
- Establishing dedicated support services for victims of financial abuse, providing them with resources and assistance in recovering from financial losses.
- Enhancing regulatory oversight and enforcement measures to hold perpetrators of financial abuse accountable and deter future misconduct.

- **2.7 Protecting Consumers in Vulnerable Circumstances**

In light of the proposed amendments to the Consumer Protection Code regarding consumers in vulnerable circumstances and the draft Guidance on Protecting Consumers in Vulnerable Circumstances, we commend the CBI for its focus on enhancing support and protection for vulnerable individuals. However, there are areas where further clarity and guidance are needed to ensure effective implementation and adherence across the industry.

Firstly, while the definition of a consumer in vulnerable circumstances is a step in the right direction, there is a need for clearer protocols on how to identify and document vulnerabilities, especially when customers do not consent to such information being logged. Exploring alternative methods, such as relying on legitimate interest under GDPR, could provide a solution without compromising customer privacy or adding unnecessary pressure.

Additionally, differentiating between temporary and permanent vulnerabilities would enable financial institutions to tailor their support services, accordingly, ensuring a more personalized approach to consumer protection. This distinction would facilitate more effective assistance based on the specific needs of each individual.

While the introduction of a Trusted Contact Person (TCP) is a positive advancement in supporting vulnerable customers, there remains uncertainty surrounding their role and obligations. Specifically, questions arise regarding the extent of their decision-making authority, if any, and the protocols for data sharing. To address these concerns, collaboration with the Data Protection Commission (DPC) could yield comprehensive guidance on data sharing practices and the legal ramifications involved, thereby offering clarity to all stakeholders. We are aware that discussions are ongoing with key stakeholder groups, such as the Decision Support Services, and this collaborative effort is encouraged.

Moreover, clarification is being sought on the interplay between the role of the Trusted Contact Person and the requirements of the Assisted Decision-Making (Capacity) Act, 2015. It's essential to reconcile these aspects to ensure coherence and compliance with existing legislation and standards.

Furthermore, although it is acknowledged that TCPs serve an informative function and do not assume decision-making responsibilities on behalf of customers, further clarification on their duties and limitations would be advantageous. Incorporating practical examples or case studies showcasing the role of TCPs in diverse scenarios would not only enhance comprehension but also facilitate the effective implementation of TCP initiatives by financial institutions.

- **2.8 Climate Risk**

The proposed inclusion of climate considerations in suitability assessments represents a significant step towards integrating sustainability preferences into financial decision-making processes. However, there is a need for further clarification to ensure consistent interpretation and application across providers. Specifically, establishing a standard set of questions to ascertain customers' sustainability preferences would enhance uniformity and facilitate implementation. Moreover, clarification regarding the scope of products to which these requirements apply is essential for effective compliance.

In response to the questions posed:

- Recognising the significance of EU consumer protections concerning climate and sustainability, it is imperative to offer comprehensive feedback on the proposed Code protections in this regard. Clear guidelines and standardised procedures are essential to ensure consistent implementation across the industry.
- The approach to incorporating sustainability preferences with existing suitability criteria is commendable, but it requires meticulous planning and execution to achieve uniformity and effectiveness. Collaboration with industry stakeholders and regulatory bodies can help refine and optimize this approach.
- To ensure all suitability criteria, including those related to financial circumstances and sustainability preferences, receive appropriate consideration, it is essential to establish clear guidelines and standardised procedures. Implementing a robust framework for assessing and addressing these criteria will promote consistency and fairness in financial decision-making processes. Collaborative efforts among regulators, industry players, and consumer advocates can help develop best practices and enhance consumer protection measures.

- **3.1 Consumer Credit**

The extension of the Consumer Protection Code to include indirect credit agreements such as Buy Now Pay Later (BNPL), Hire Purchase (HP), Personal Contract Plans (PCP), and consumer hire agreements is commendable and necessary for comprehensive consumer protection. Given the unique nature of these financial products, specific elements of the revised Code should be tailored to address their particular characteristics effectively.

1) **Tailoring the Revised Code for BNPL, PCP, HP, and Consumer Hire Providers:**

- **Transparency and Disclosure:** It is crucial to mandate enhanced requirements for clear and upfront disclosure of all terms and conditions, including interest rates, fees, and the total cost of credit. This is particularly important for BNPL and PCP agreements, where the cost structure can be complex and not immediately apparent to consumers.
- **Affordability Assessments:** Robust affordability checks should be required to ensure consumers do not overextend themselves financially. BNPL providers, in particular, should assess a consumer's ability to repay before approving transactions.
- **Default and Arrears Policies:** Clear guidelines on handling defaults and arrears should be provided, including fair and transparent procedures for dealing with late payments and

financial difficulties. This will help protect consumers from punitive measures and ensure fair treatment.

- Consumer Education: Initiatives to educate consumers on the implications of using BNPL, PCP, HP, and consumer hire agreements, including potential financial risks and long-term costs, should be incorporated into the Code.

## 2) Protections for High-Cost Credit Providers:

- Interest Rate Caps: Implementing interest rate caps for high-cost credit providers should be considered to protect consumers from excessive charges. This aligns with the broader goal of preventing exploitative lending practices.
- Enhanced Disclosure: Similar to BNPL and other indirect credit providers, high-cost credit providers should be required to provide clear and prominent disclosures regarding the cost of credit, including total repayable amounts and APRs.
- Repayment Flexibility: High-cost credit providers should offer flexible repayment options and work with consumers experiencing financial difficulties to find sustainable solutions. This includes clear communication channels for consumers seeking assistance.
- Monitoring and Reporting: Establish regular monitoring and reporting requirements to ensure compliance with the revised Code and to identify emerging risks or issues in the high-cost credit sector.

## • 3.3 Insurance

### Explicit Opt-In Requirement for Gadget, Travel, Dental, and Pet Insurance:

We understand the rationale behind requiring an explicit opt-in for the automatic renewal of gadget, travel, dental, and pet insurance policies. Ensuring that customers actively consent to renew their policies can enhance transparency and consumer control. However, we have some reservations:

- Customer Inconvenience and Coverage Gaps: Dental insurance, similar to health insurance, often involves waiting periods before certain benefits can be claimed. Requiring explicit opt-in could lead to unintentional lapses in coverage, resulting in customers having to serve new waiting periods before they can access benefits. This might inadvertently disadvantage customers who forget to renew promptly. Customers might face coverage gaps for gadget and pet insurance, especially if they are unaware of the need to opt in or miss the renewal notification amidst other communications.
- Operational Complexity and Cost: Implementing explicit opt-in processes would require significant changes to insurers' automated systems. These changes are complex and could introduce new points of failure, potentially leading to administrative errors and additional costs. The balance between customer benefit and the implementation burden needs to be carefully considered. The potential risks of unintentional non-renewal and increased operational costs might outweigh the intended benefits of increased consumer engagement.

### Additional Renewal Notification for Non-Life Insurance Products:

We acknowledge that the requirement to provide an additional pre-renewal notification 40 days prior to the renewal date is intended to give customers more time to consider their options. However, we have concerns about the practical benefits and potential drawbacks:

- Validity of Quotations: Quotations obtained 40 days before the renewal date are often subject to change and may not be valid by the time the renewal date approaches. As a result,



customers might still need to seek updated quotes closer to the actual renewal date, undermining the benefit of the additional notification period.

- **Existing 20-Day Notice Period:** The current 20-day notice period already provides sufficient time for policyholders to review their renewal options and seek alternatives. Extending this to an additional 20 days may not offer significant added value, but instead may create confusion or unnecessary administrative burdens.
- **System Adjustments and Errors:** Implementing this change would require insurers to introduce new rules into their automated renewal systems. Given the complexity of these systems, there is a risk of errors during implementation, which could lead to customer dissatisfaction and potential lapses in coverage. The costs and resources needed to update these systems might outweigh the benefits, particularly if the additional notification does not significantly enhance the customer's ability to make informed decisions.

#### **Regarding the Draft Regulation:**

- Referring to Chapter 6, Section 340 of the CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013 (SECTION 48) (CONDUCT OF BUSINESS) REGULATIONS: This section clarifies that the term "quotation" includes a renewal quotation. Currently, insurers issuing renewal invites with quotations have the option to contact the customer to confirm their intent to renew. This practice assists policyholders by reminding them of their renewal and addressing any queries they may have. However, Section 340(1) states that RFSPs are prohibited from making follow-up oral communications via telephone for discussing insurance quotations unless the consumer has consented during the quotation process. As it stands, this could prevent insurers from making such calls, potentially impacting customers who rely on them.
- Regarding optional extras offered, as outlined in Section 96(1)(B): Unlike the current CPC requirement, this subsection stipulates that written consent from the policyholder is necessary to purchase optional extras. It is unclear how this requirement for written consent could practically be obtained. Would a customer selecting an optional extra during a digital journey suffice? For telephone sales, would the customer need to mail in their written consent or upload it to a portal? If the latter, this process could discourage customers from opting for benefits, potentially having a negative impact without clear customer benefit.
- Regarding initiating telephone calls with existing customers, as outlined in Section 111(1): Clarification is sought regarding whether this aspect solely pertains to calls initiated by insurers and thus does not apply to calls made by insurers in response to inquiries from existing customers.

- **3.4 Investments and Pensions**

We have several observations and suggestions regarding the proposed changes.

#### **Comments on Proposed Enhanced Disclosures:**

- **Inclusion of Auto-Enrolment Scheme:** The current proposals do not apply to the auto-enrolment (AE) scheme, which is expected to become the largest pension scheme in the State. This exclusion means that AE participants will not benefit from the same level of disclosure and protection under the Consumer Protection Code as those in other pension schemes. Additionally, this creates a disparity where the State-run AE scheme does not bear the same compliance costs as private pension providers, potentially distorting the market. We strongly recommend that the CBI extend the enhanced disclosure requirements to the AE scheme to ensure uniform consumer protection and equitable competition across all pension schemes.

- **Consumer Understanding and Communication:** Enhanced disclosures are vital for helping consumers understand the importance of long-term investments and the suitability of their pension products. However, the effectiveness of these disclosures depends significantly on how clearly and comprehensively they are communicated. We propose the development of standardized disclosure templates and educational tools that are easy to understand and accessible to all consumers. This could include visual aids, simplified language, and practical examples to illustrate complex financial concepts.
- **Annual Statements and Ongoing Suitability Assessments:** The requirement to include explanations for the lack of ongoing suitability assessments in annual statements is a positive step towards transparency. This measure can help set realistic expectations and underscore the importance of regular financial reviews. To further enhance this approach, we suggest incorporating prompts or reminders in annual statements encouraging consumers to seek periodic financial advice, particularly when their personal circumstances or financial goals change.
- **Balancing Costs and Benefits:** While the enhanced disclosure requirements are designed to protect consumers, it is important to consider the potential increase in compliance costs for pension providers. These costs could ultimately affect the pricing and accessibility of pension products. We recommend that the CBI work closely with industry stakeholders to clarify the requirements in order to ensure that firms can develop efficient and cost-effective compliance mechanisms that do not compromise the quality of consumer protection.

#### Additional Considerations:

- **Leveraging Technology:** Utilising digital tools and platforms can significantly enhance the effectiveness of disclosures. Interactive online portals and mobile applications can provide personalized information, scenario analyses, and educational resources, making it easier for consumers to understand the implications of their investment and pension choices.
- **Consumer Feedback Mechanisms:** Establishing a feedback loop to gather consumer input on the clarity and usefulness of disclosures can help continuously refine and improve the information provided. Regular consumer feedback can ensure that disclosures remain relevant and effective in meeting consumer needs.

#### • 14. Benefits and Costs

While we recognise the potential benefits of these changes, it is crucial to consider the associated costs and the broader regulatory context.

Below are our detailed views on the cost analysis presented in the consultation paper and suggestions for a more comprehensive assessment.

#### Analysis of the Costs:

- **Lack of Holistic Cost-Benefit Analysis:** The consultation paper does not adequately address the cumulative impact of the numerous changes proposed. Each individual change might be justified, but their collective impact on financial institutions has not been thoroughly analysed. A more holistic view is needed to understand the full scope of the regulatory burden being imposed.
- **Significant Implementation Costs:** The proposed changes will require fundamental system overhauls across various areas, leading to substantial implementation costs. The CBI's assumption that these are merely builds on existing requirements is not accurate in several instances. Many changes will necessitate entirely new processes and systems, creating parallel operational structures that increase complexity and cost.
- **Compounded Regulatory Complexity:** Financial institutions are already facing significant challenges from recent and upcoming regulations, such as SEAR/IAF, outsourcing and

operational resilience guidelines, and DORA. The extensive CPC changes will only add to these challenges, further stretching resources and potentially affecting the ability to comply effectively.

- **Need for Detailed Cost Assessment:** We urge the CBI to conduct a detailed cost assessment for each proposed change, considering both direct implementation costs and indirect impacts on operations. This assessment should include feedback from a diverse range of financial institutions to capture a comprehensive picture of the potential financial and operational strain.

#### Recommendations:

1. **Comprehensive Impact Assessment:** Conduct a thorough impact assessment that considers the cumulative effects of all proposed changes. This assessment should evaluate not only the direct costs but also the indirect implications for operational efficiency and resource allocation.
2. **Phased Implementation Approach:** Consider a phased implementation approach to allow financial institutions sufficient time to adapt to the new requirements. This approach can help mitigate the immediate financial burden and operational disruptions.
3. **Stakeholder Engagement:** Engage more extensively with stakeholders, including a broad spectrum of financial institutions, to gather insights on the practical challenges and cost implications of the proposed changes. Use this feedback to refine the proposals and implementation timelines.
4. **CBI Workshops on specific topics:** We suggest that these workshops include relevant stakeholders and focus on the following areas: Securing Customers' Interests, Effective Communication, and Protecting Consumers in Vulnerable Circumstances.
5. **Cost-Benefit Transparency:** Provide greater transparency around the cost-benefit analysis process, including detailed breakdowns of expected costs and benefits for each major proposal. This transparency will help institutions better understand the rationale behind the changes and prepare accordingly.

- **15. Responding to the Consultation and Next Steps**

We foresee significant challenges in implementing the proposed changes within the 12-month timeframe. Below are our detailed views on the proposed implementation period, highlighting the complexities and suggesting a more practical timeline.

#### Implementation Challenges:

- **Complex System Changes:** Navigating the intricacies of meeting the 12-month deadline, particularly regarding core system functionalities, collateral changes, and adjustments to digital platforms, presents significant challenges. Clarification on several crucial points is essential, as proceeding with the analysis of requirements, budgets, and internal projects hinges on this clarity. The necessary functionality changes for core banking systems, collateral adjustments, and updates to digital platforms are complex and time-consuming. Achieving full implementation within the stipulated 12-month timeframe may prove unrealistic given these technical and operational complexities. There are anticipated challenges with meeting the deadline, especially as clarification is needed on various critical aspects.
- **Consistency Across Regimes:** Achieving consistency across the Individual Accountability Framework (IAF), Senior Executive Accountability Regime (SEAR), and CPC regimes requires clear guidelines and ample preparation time. The immediate applicability of requirements, such as those seen with Section 17A and the General Principles of the 2012 Code, adds further urgency and complexity.

- Third-Party Dependencies: Meeting new arrears obligations and other requirements will necessitate changes in third-party processes. Coordinating with third parties and ensuring their compliance within 12 months is a significant challenge.
- Comprehensive Updates and Training: Extensive updates to customer-facing collateral and internal documentation are needed. A robust training and communication strategy across all divisions is essential to ensure successful implementation and compliance, which cannot be effectively achieved within the proposed timeframe.

#### **Potential for Customer Confusion:**

- Overwhelming Information: While providing comprehensive information to customers is crucial, there is a risk of overwhelming them with excessive details. The expanded definition of 'consumer' to include incorporated entities with a turnover of less than €5 million, along with the interchangeable use of 'customer' and 'consumer' in the draft regulations, necessitates further clarification to prevent confusion.
- Regulatory Duplication: The proposed changes lead to significant regulatory duplication and gold-plating, resulting in overlapping provisions. For example, protections for vulnerable customers overlap with the Assisted Decision-Making Act, and additional layers are added to existing distance marketing regulations.
- Unclear Rationale for Some Changes: Some proposed changes lack clear rationale or evidence, such as the halving of claims processing timelines despite the absence of customer complaints. Increased disclosure requirements contradict feedback indicating that customers are already overwhelmed by the volume of information.

#### **Recommendation for Extended Implementation Period:**

1. 24-Month Implementation Period: We strongly recommend extending the implementation timeline to 24 months post-final publication. This extension will allow financial institutions to make necessary system and operational adjustments, ensuring the maintenance of service quality and regulatory compliance.
2. Phased Implementation: Consider implementing some proposals sooner, particularly those with immediate and significant benefits for consumers, while allowing more time for complex and resource-intensive changes.

Please do not hesitate to contact us if you require further detail on any of the points raised above.

Yours faithfully,



Patricia Callan

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