



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

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Consumer Protection Outlook Report



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FOREWORD

Financial products and services play such an important part in the everyday lives of consumers from paying for goods and services, to insuring against future risks, saving for retirement, transferring money and borrowing to meet short and longer term needs. While they can deliver consumer benefits, they can undoubtedly also present risks if the right product is not sold to the right consumer in the right way. Our consumer protection framework requires all regulated firms to act in consumers' best interests and, in their day to day dealings, to treat them fairly, with dignity and respect and support them in making good financial decisions.

Over the next few years as the economy and our financial system continue to recover, our consumer protection focus will be on requiring firms to make the essential cultural shift to putting the consumer first and to demonstrate that this shift is deeply rooted and sustained throughout the organisation.

It is against this backdrop that the Central Bank has published our first Consumer Protection Outlook Report which sets out our assessment of key existing and emerging risks for consumers. This will shape our consumer protection priorities and agenda over the next few years

We will continue to monitor the consumer protection environment, enhance our evidence base and consumer protection framework and engage with our key partners, including consumers, industry, government and others so that together we can focus on getting it right for consumers, now and in the future.

Bernard Sheridan
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Consumer Protection Objectives: Consumer Risks, Priorities and Themes

The Central Bank has a statutory objective of effective regulation of financial service providers and markets, while ensuring that the best interests of consumers are protected. The Central Bank’s objective in its supervision of financial institutions is to ensure that risks to financial stability and consumer protection are mitigated effectively. The importance we place on consumer protection is reflected in our mission statement of Safeguarding Stability – Protecting Consumers. Our consumer protection strategy forms a key part of the Central Bank’s overall wider strategy including our prudential supervision mandate and financial stability goal. Our consumer protection strategy is delivered in the context of our consumer protection mission of “Getting it right for consumers”.

Financial products and services play such an important part in the lives of all consumers from paying for goods and services, to saving for retirement, insuring against future events, transferring money and borrowing money for short or long term purposes. While they provide many benefits to consumers, they can also bring certain risks to consumers arising from the products and services themselves, the behaviour of firms and the individuals who run them, as well as risks arising in the wider market. The Central Bank’s consumer protection objectives are based on the need to ensure that consumers are treated fairly and with respect and dignity by firms, and that firms act in their consumers’ best interests in all that they do.

It is within this backdrop that we seek to deliver our consumer protection mission of “Getting it right for consumers” through what we call the 5 Cs Framework, which helps us keep a clear focus on the risks facing consumers and the outcomes we are trying to achieve. This framework puts the **Consumer** at its centre, where the focus of firms must be on delivering positive consumer outcomes within a regulatory framework that is fit for purpose. This can only be achieved where firms have a consumer focused **Culture** which enables consumers to have **Confidence** in the financial decisions they are making and the firms they are dealing with. However, firms need to **Challenge** themselves and be challenged by the regulator where their focus is not on those consumer outcomes. There is a need and appetite for appropriate regulatory action where **Compliance** standards are not being met.

The Central Bank publishes an Annual Performance Statement (APS) setting out the progress we are making in delivering on our strategy. The Outlook Report is additional to the APS, in that it outlines our wider consumer protection themes that we will be focusing on in the context of our strategy and the risks we see to our consumer protection objectives under each of our 5 Cs. It also replaces our previously published list of supervisory themed reviews and inspections.

Consumer: the Consumer Protection Framework

The Central Bank's 5 Cs framework has the **consumer** at its centre, which reflects our primary aim to ensure that the focus of our work, as well as that of the firms we regulate, is on delivering the best outcomes for consumers. A key element of our role is ensuring that the consumer protection regulatory framework is fit for purpose and working for consumers.

Alongside the existing consumer protection legislation, the Central Bank has used its code making powers, including introducing the Consumer Protection Code and the Minimum Competency Code, which cover cross-sectoral issues such as complaints handling and advertising rules, as well as sector-specific rules. International organisations such as the World Bank and OECD¹, as well as the new FinCoNet organisation for financial consumer protection regulators, have also adopted a greater focus on consumer protection. The Central Bank has positioned its role firmly as influencing these developments in order to retain the consumer protections we have in Ireland, to enhance and develop them where possible, and to share learning and best practice on regulatory approaches.

The influence of the European Commission in terms of introducing legislation and regulations in respect of consumer protection issues is increasing. In the last year, for example, we have seen the publication of the Mortgage Credit Directive, the Payment Accounts Directive and Key Information Documents for Packaged Retail and Insurance-based Investment Products. A key priority for us is, in liaison with the

¹ Organisation for Economic Cooperation and Development

Department of Finance as key partners, to support the drafting, negotiation and transposition processes of European legislation into Irish law. In addition, the three European Supervisory Authorities (EBA², ESMA³ and EIOPA⁴) (the 'ESAs'⁵) are now playing an important role in shaping the consumer protection framework. The Central Bank is actively working to influence and contribute to the ESAs' agendas.

Priority themes

- While there is a strong overarching consumer protection regulatory framework in place, there are always challenges in ensuring that it remains effective and that gaps are closed when risks emerge. We will continue to monitor and respond where necessary to developments in the market particularly where new ways of distributing financial services, including in the area of mobile payments and new web-based business models are emerging, such as crowd-funding or virtual currencies. We will work closely with our peers in Europe as we seek to ensure that appropriate protections are in place.
- We will continue to commit our resources to influencing and shaping the international and European agenda, including the work of the ESAs. We will have a strong focus on retaining and enhancing the key protections we already have in place when new laws are being developed in Europe.
- The Central Bank's Code of Conduct on Mortgage Arrears (CCMA) provides a strong consumer protection framework for borrowers

² European Banking Authority

³ European Securities and Markets Authority

⁴ European Insurance and Occupational Pensions Authority

⁵ European Supervisory Authorities

who are struggling with mortgage repayments or who are in arrears and pre-arrears. However, these protections only apply where the lender is a regulated firm. We continue to highlight our views that the protections borrowers currently have when they get into difficulties meeting mortgage repayments should remain in place if their mortgage is sold to a third party. We are working closely with the Department of Finance as it develops the necessary legislation and we will play our part in implementing the measures when finally agreed.

- Our consumer protection regulatory framework is subject to ongoing review and development and, to this end, we are currently consulting on the protections in place for SMEs when accessing credit and how they are dealt with when they get into financial difficulty.

Culture: developing a consumer focused culture

Culture plays a critical part in driving the behaviour of firms and individuals within them. We can see as we engage with firms across the different sectors that a consumer-centred culture leads to more positive outcomes for consumers, as well as a more constructive engagement with the regulator. It is essential that firms get their culture right if trust and confidence is to be restored and maintained in the financial services industry and it is fundamental to ensuring that consumers are treated fairly. Boards and senior management have a critical and central role to play; culture is set at the top but it must permeate through every level in the firm, right to the frontline delivery of consumer services, including the sale of new products, if it is to be successfully embedded. The board must own the culture agenda and set a clear corporate focus on the delivery of meaningful and measurable consumer-focused outcomes and engagement. Embedding this strong culture can be difficult but with the right values, governance and incentives in place, it can be achieved. We expect all firms to develop internal consumer protection risk frameworks, reflecting the nature, scale and complexity of their businesses, and to provide the right support structure thus embedding a culture that generates positive outcomes for consumers.

Priority themes

- We will build on our engagement with firms' boards and senior management to ensure that there is a clear focus from the top on embedding and measuring the firms' own cultural change programmes. We intend to continue this programme of work to

challenge boards and senior management to be able to demonstrate the outcomes being delivered for consumers.

- Cultural change needs to be underpinned with internal support structures within firms. We intend to monitor and challenge how firms are developing their internal consumer protection risk frameworks, including governance arrangements and implementation and monitoring of performance metrics based on a comprehensive understanding of their customers' experiences, behaviours and needs.
- Incentive structures can influence the behaviour of individuals who are engaging with consumers and reflect the inherent culture within a firm. We intend to continue our work in this area and ensure that firms are responding appropriately to the guidance we issued in 2014 on appropriate variable remuneration arrangements.

Confidence: consumer confidence in the firms they deal with

Consumer **confidence**, like culture, can be difficult to physically see or measure when everything is functioning properly, but lack of consumer confidence can be very apparent when things go wrong. Consumers have a right to expect firms to act in their best interests and to treat them fairly and with dignity and respect in their ongoing relationships with their customers. They also expect the financial services industry to be well regulated with their interests being served.

Complaints handling, when dealt with in an open, fair and timely way can represent a real opportunity for firms to restore confidence in their consumer relationships. This includes the identification of root causes of issues to ensure that the whole problem is solved rather than solely focusing on the individual complaint. However, up until recently, the increasing level of complaints going to the Financial Services Ombudsman represented a worrying trend as firms themselves were not resolving their own customer complaints.

It is critical that all firms have robust systems in place to deliver a reliable service to their customers, particularly at a time when online and mobile technology is increasingly relied upon to undertake financial transactions. However, when problems do occur, consumers' confidence will be based on how well the incident is handled in their view and the extent to which their issues are resolved in an open, fair and timely way. Often consumers complain about the lack of information available to them when a service breaks down or they are unaware of what impact it will have on them.

There are some financial decisions that consumers may only make once or twice in their lives such as taking out a pension or a mortgage. These are very important decisions which can have long-term benefits and consequences for the consumer. It is critical that the consumer can have full confidence that their interests are being looked after. We expect firms to demonstrate to their customers in an open and transparent way that they are acting in their best interests at all times.

We expect firms to actively seek and monitor feedback from their customers to identify where they can provide better products and services, and to enable them to respond in a more timely way to their concerns. It is also important that we, as a regulator, keep abreast of consumers' issues, behaviours, attitudes and experiences and intervene where we have concerns. In addition to our increasing programme of consumer research and behavioural studies, large retail firms across a number of sectors including banking and insurance are now providing us with conduct of business returns to help inform our risk outlook assessments and priorities. The Central Bank also monitors social media for emerging issues and receives market intelligence from key stakeholders including the Competition and Consumer Protection Commission and the Financial Services Ombudsman. This information provides us with insights into existing and emerging consumer issues and allows us to better challenge and assess how firms are dealing with them.

Priority themes

- We will continue to focus on how lenders are delivering on the important consumer protections prescribed by the statutory CCMA for borrowers in arrears and pre-arrears.

- Responsible lending is another important focus for us and we will examine the sale of credit products by the main lenders to ensure that consumers' interests are being fully protected including when they are experiencing financial difficulties, overindebtedness and arrears.
- We will examine the sale of other long-term products such as pensions and in particular assess firms' handling of conflicts of interest when sold directly or on an outsourced basis, for example in terms of how the seller is remunerated.
- Systems failures and errors will continue to be monitored to ensure that firms are delivering on their obligations to ensure that consumers are kept fully informed of the issues and that the impact on the consumer is appropriately dealt with in a timely and appropriate way.
- We will continue the ongoing monitoring of market developments through the various channels. We will also commence public reporting on trends in the market.

Challenge: of firms and ourselves

We will continue to **challenge** ourselves as regulators to ensure that we are achieving the Central Bank's consumer protection objectives. Our challenge is to be sure that we are outcomes-focused for consumers; that is, that our work is risk and evidence-based and that we work with our stakeholders to achieve meaningful outcomes for consumers. The Central Bank is currently undertaking a reciprocal peer review of its consumer protection function with colleagues in the Dutch Authority for Financial Markets (AFM). This is the first time that such a review is being undertaken using the OECD Consumer Protection Principles as a guide to the work. The outcome of this review, which examines not only our framework but also our strategy, will be published in 2015.

We will increase our focus on challenging industry on their culture, practices, products or services where we believe it poses or may pose a threat to our consumer protection objectives, whether at authorisation stage or through the on-going supervision process. We have demonstrated that we are prepared to challenge firms when we see potential consumer detriment by taking regulatory actions where necessary, including consumer redress, directions and enforcement actions under our administrative sanctions procedures.

There are a number of areas which will present challenges to firms and industry as well as the regulator in the future. For firms, we expect a greater focus on looking at consumer outcomes and being able to demonstrate, not only compliance, but also how outcomes are being measured. The focus needs to shift to examining the business model driving how the business is shaped, how consumer needs are being met from development of products right through to the sales and the after-

sales processes. This will present greater challenges for firms, especially product producers who sell through intermediary channels.

Priority themes

- We will consider the findings of the AFM Peer Review Report, with a view to ensuring that we are meeting our objectives and delivering on our mandate in the most effective way.
- We will conduct further research of both consumers and industry and continue to proactively analyse evidence-based data from our market intelligence in order to inform our priorities. This research will also help inform the wider market of emerging consumer issues.
- Ensuring the right business model, with the proper product oversight and governance in place, will form part of our regulatory work. We expect all firms to demonstrate that their products are fit for purpose - going beyond tick-box and disclosure to ensuring they are fully understood by their customers and are suitable for meeting the needs of their customers. Firms need to move away from relying on legalistic terms and conditions which contain clauses that are either unfair or just simply impossible for consumers to understand. We expect firms to test their products to ensure that they are simplifying products where necessary, using plain language, and going beyond disclosure to ensuring consumers' understanding before launching as well as during the sales process.

Compliance: how firms are meeting and demonstrating compliance

We view **compliance** as the minimum standard. Firms need to go beyond the minimum legal requirements and move to delivering meaningful outcomes for consumers. For example, from our own research on consumers' understanding of the annual personal pension statements, firms which are going beyond the minimum achieved better results in terms of consumers' level of understanding and satisfaction. Our approach to monitoring compliance is also developing. The Central Bank will increasingly require firms and their boards to be able to demonstrate how they are going beyond the minimum standards and how their business models, products and services meet the underpinning principle of consumer protection – delivering outcomes that are in the consumer's best interests.

One area that remains a concern is the delegation and outsourcing of core activities by firms to third parties or to agents employed to act on their behalf. Responsibility remains with the firm to ensure that standards of compliance are not impacted by such arrangements.

We will continue to conduct themed reviews and inspections to examine specific risks and will publicly report the findings. It is important that all firms consider industry feedback to ensure they are meeting best practice. We will also continue with our initiatives to help smaller firms understand their responsibilities better, including hosting road shows around the country and the publication of newsletters for a number of industry sectors.

Priority themes

- We will conduct a number of themed reviews and inspections to support the delivery of our consumer protection objectives under the priorities identified. This will include monitoring of mortgage lenders' compliance with the CCMA and work on responsible lending, the sale of products on an execution-only basis and the sale of long term products.
- We will focus our supervisory work on firms that are not meeting the minimum standards in terms of complying with reporting and other obligations to the Central Bank. While many of these firms are small and low impact, they nevertheless pose a serious threat to our objectives, as non-compliance in one area can often be a sign of wider issues which impact on consumer outcomes.

Conclusion

This paper sets out key consumer protection objectives which all regulated firms should be delivering on in order to demonstrate that they are treating customers fairly, with dignity and respect and acting in their best interests. These are also our key consumer protection objectives. We have highlighted the risks arising to these objectives and a number of our priorities for the coming years. These risks and our priorities will remain under review and will be updated on an annual basis to reflect the changing consumer environment. We expect all firms to consider the issues highlighted in the context of their own businesses and to focus on how they are delivering the right consumer outcomes, now and in the future.

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