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COUNCIL

Council

**DRAFT RECOMMENDATION OF THE COUNCIL ON HIGH-LEVEL PRINCIPLES ON FINANCIAL
CONSUMER PROTECTION**

(Note by the Secretary-General)

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1. This document presents, for adoption by the Council, a draft Recommendation on High-Level Principles on Financial Consumer Protection proposed by the Committee on Financial Markets.

Introduction

2. Consumer confidence and trust in a well-functioning market for financial services promotes financial stability, growth, efficiency and innovation over the long term. Consumers are at the very centre of the financial system and, as such, they should feel capable, knowledgeable, safe and secure in their dealings with financial services providers and their intermediaries.

3. The high social and economic costs of the financial and economic crisis come along with the growing complexity, sophistication and rapid technological advances determining the provision of financial products and services and the ongoing transfer of financial risk to individuals and households. This adds further emphasis to the need for governments, regulators and supervisors, in both advanced and emerging economies, to reconsider the rules of the game on how to effectively address financial governance and risk while ensuring existing and future consumers develop the knowledge, skills and confidence to make informed financial choices.

4. While significant progress has been made, there is recognition that more still needs to be done to support policies and actions that promote financial consumer protection. Financial consumer protection is a multi-dimensional challenge, encompassing a variety of inter-related policy considerations. As such, financial consumer protection should not be seen as a standalone policy but rather as a complement to efforts to increase access to affordable and appropriate financial services and products and to support improved financial education and literacy. These three pillars – protection, access and education – should be integrated into the broader regulatory framework, alongside prudential regulation, governance and competition policies.

5. The OECD, in its strategic response to the financial and economic crisis, identified the importance of financial consumer protection as an overlooked aspect of the crisis.¹ The Committee on Financial Markets (CMF) reinforced the financial consumer protection part of its own work programme, including through the adoption of a Council Recommendation,² and recognised the relevance of this issue through a special session on financial consumer protection, on 16 April 2010. As a consequence of these discussions, the CMF agreed in March 2011 to establish a dedicated Task Force on Financial Consumer Protection [[CE\(2011\)2](#)]; the Task Force was directed to study developments in financial consumer protection systems and techniques; contribute to related policy analysis and recommendations; co-operate and co-ordinate on these issues with other relevant OECD bodies as well as with other international organisations; consult with other relevant stakeholders and importantly to contribute as required to the work on financial consumer protection that was initiated by the G20.

6. On the occasion of their 19-20 February 2011 meeting, G20 Finance Ministers and Central Bank Governors in Paris called on the OECD, the Financial Stability Board (FSB) and other relevant international organisations to develop common principles on consumer protection in the field of financial services by the time of their October 2011 meeting.³ As requested and agreed by the G20 French

¹ Financial Literacy and Consumer Protection; Overlooked aspects of the Crisis [<http://www.oecd.org/dataoecd/32/3/43138294.pdf>].

² Recommendation of the Council on Good Practices on Financial Education and Awareness Relating to Credit [[C\(2009\)62](#)].

³ This complemented the G20 leaders' call at the November 2010 Seoul Summit. The G20 leaders asked the FSB to work in collaboration with the OECD and other international organisations to explore, and report back at the next summit, options for advancing financial consumer protection through informed choices

Presidency and the FSB, the development of the High-Level Principles on Financial Consumer Protection has been led by the OECD.

7. The OECD co-ordinating work on the High-Level Principles on Financial Consumer Protection was channelled through the CMF Task Force, which is open to all G20 and FSB members, and other relevant international organisations and standard-setter bodies. The Task Force held three physical meetings in Paris during 2011 for the express purpose of developing an appropriate set of principles on financial consumer protection.

8. The Principles, as prepared by the OECD Task Force, went also through several rounds of intensive written consultations, as well as through a public consultation process via the OECD website, and benefited from close co-operation with the FSB and its Consultative Group, other international organisations and standard setter bodies, networks and consumer and industry associations. Inputs on financial education issues were provided through the OECD International Network on Financial Education (INFE), which comprises representatives from institutions from 95 countries, including all G20 members. In addition to the CMF, three other OECD committees (Insurance and Private Pensions Committee, Committee on Consumer Policy and Competition Committee) were consulted.

9. The Principles are voluntary and non-binding. They are designed to complement, not substitute for, existing international financial principles or guidelines. In particular, they do not address sector-specific issues dealt with by relevant international organisations and financial standard setters. The Principles can be adapted to specific national and sectoral contexts. They pay special attention to the legal recognition of financial consumer protection, the need for oversight bodies with the necessary authority and resources to carry out their mission, fair treatment of consumers, proper disclosure and improved financial education, responsible business conduct by financial services providers and intermediaries. They also call for objective and adequate advice, protection of assets and data including from fraud and abuse, competitive frameworks, adequate complaints handling and redress mechanisms and policies which address, when relevant, sectoral and international specificities, technological developments and the special needs of vulnerable groups of consumers.

10. The final version of the Principles was endorsed by the Task Force in September 2011 and then submitted for approval to the CMF and FSB before transmission to the G20.

11. The G20 Finance Ministers and Central Bank Governors at their Paris meeting on 14-15 October 2011 endorsed the High-Level Principles on Financial Consumer Protection and called for further work on implementation issues. They were subsequently endorsed by the G20 leaders at the G20 Cannes Summit, 3-4 November 2011. The Cannes Summit Final Declaration states that:

“We (the G20 leaders) agree that integration of financial consumer protection policies into regulatory and supervisory frameworks contributes to strengthening financial stability, endorse the FSB report on consumer finance protection and the high level principles on financial consumer protection prepared by the OECD together with the FSB. We will pursue the full application of these principles in our jurisdictions and ask the FSB and OECD along with other relevant bodies, to report on progress on their implementation to the upcoming Summits and develop further guidelines if appropriate.”⁴

that include disclosure; transparency and education; protection from fraud, abuse and errors; along with recourse and advocacy. The report was expected to concentrate on aspects linked to consumer credit and focuses largely (but not necessarily exclusively) on related financial stability issues.

⁴ Cannes Summit Final Declaration: Building Our Common Future: Renewed Collective Action for the Benefit of All, 4 November 2011.

In their Declaration at the Los Cabos Summit on 18-19 June 2012, the G20 leaders reiterated their support for OECD work and mandated the Organisation to carry out further work in this area:

“We also endorse the Action Plan presented by the G20/OECD Task Force on Financial Consumer Protection to develop effective approaches to support the implementation of the High Level Principles on Financial Consumer Protection, and look forward to an update report by the Leaders’ Summit in St. Petersburg in 2013.”

12. The CMF which already endorsed the Principles in September 2011 confirmed its wish to transmit these principles to the OECD Council as a draft OECD Recommendation, expanding thus the coverage of the Principles to all OECD Members and strengthening and formalising further the agreement already reached within the OECD at the level of the Committee and its Task Force. The CMF approved the draft Recommendation at its meeting on 26-27 April 2012.

Proposed Action

13. In the light of the preceding, the Secretary-General invites the Council to adopt the following draft conclusions:

THE COUNCIL

- a) noted document [C\(2012\)102](#);
- b) adopted the draft Recommendation of the Council on High-Level Principles on Financial Consumer Protection set out in the Appendix to document [C\(2012\)102](#) and agreed to its declassification.

APPENDIX
DRAFT RECOMMENDATION OF THE COUNCIL ON HIGH-LEVEL PRINCIPLES ON
FINANCIAL CONSUMER PROTECTION

THE COUNCIL,

Having regard to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Considering that the integration of financial consumer protection policies into regulatory and supervisory frameworks contributes to strengthening financial stability;

Considering that consumer trust and confidence is important for the proper functioning of the financial system and that consumers should be knowledgeable, safe and secure in their dealings with financial services providers and their intermediaries;

Considering the need for improved financial education and awareness to ensure consumers make informed choices that support their own financial well-being;

Having regard to the Recommendation of the Council on Principles and Good Practices for Financial Education and Awareness [[C\(2005\)55/REV1](#)] and the Recommendation of the Council on Good Practices on Financial Education and Awareness relating to Credit [[C\(2009\)62](#)];

Noting the endorsement by the G20 on 3-4 November 2011 of the High-Level Principles on Financial Consumer Protection as developed by the OECD Task Force on Financial Consumer Protection of the Committee on Financial Markets;

Considering that governments and relevant public, consumer and private institutions in OECD Members and non-Members may benefit from high-level principles on financial consumer protection;

Considering that the High-Level Principles are voluntary and non-binding and that they are designed to complement, not substitute for, existing international financial principles or guidelines;

On the proposal of the Committee on Financial Markets;

I. RECOMMENDS that Members promote the High-Level Principles on Financial Consumer Protection, as set out below, and that, in this regard, governments, regulators, supervisors and other relevant public institutions take due account of and implement these Principles :

A. Legal, Regulatory and Supervisory Framework

1. Financial consumer protection should be an integral part of the legal, regulatory and supervisory framework, and should reflect the diversity of national circumstances and global market and regulatory developments within the financial sector.

2. Regulation should reflect and be proportionate to the characteristics, type, and variety of the financial products and consumers, their rights and responsibilities and be responsive to new products, designs, technologies and delivery mechanisms.¹ Strong and effective legal and judicial or supervisory mechanisms should exist to protect consumers from and sanction against financial frauds, abuses and errors.

3. Financial services providers and authorised agents² should be appropriately regulated and/or supervised, with account taken of relevant service and sector specific approaches.

4. Relevant non-governmental stakeholders – including industry and consumer organisations, professional bodies and research communities – should be consulted when policies related to financial consumer protection and education are developed. Access of relevant stakeholders and in particular consumer organisations to such processes should be facilitated and enhanced.

B. Role of Oversight Bodies

5. There should be oversight bodies (dedicated or not) explicitly responsible for financial consumer protection, with the necessary authority to fulfil their mandates. They require clear and objectively defined responsibilities, and appropriate governance; operational independence; accountability for their activities; adequate powers; resources and capabilities; defined and transparent enforcement framework and clear and consistent regulatory processes. Oversight bodies should observe high professional standards, including appropriate standards of confidentiality of consumer and proprietary information and the avoidance of conflicts of interest.

6. Co-operation with other financial services oversight authorities and between authorities or departments in charge of sectoral issues should be promoted. A level playing field across financial services should be encouraged as appropriate. International co-operation between oversight bodies should also be encouraged, while specific attention should be considered for consumer protection issues arising from international transactions and cross-border marketing and sales.

C. Equitable and Fair Treatment of Consumers

7. All financial consumers should be treated equitably, honestly and fairly at all stages of their relationship with financial service providers. Treating consumers fairly should be an integral part of the good governance and corporate culture of all financial services providers and authorised agents. Special attention should be dedicated to the needs of vulnerable groups.

D. Disclosure and Transparency

8. Financial services providers and authorised agents should provide consumers with key information that informs the consumer of the fundamental benefits, risks and terms of the product. They should also provide information on conflicts of interest associated with the authorised agent through which the product is sold.³

9. In particular, information should be provided on material aspects of the financial product. Appropriate information should be provided at all stages of the relationship with the customer. All financial promotional material should be accurate, honest, understandable and not misleading. Standardised pre-contractual disclosure practices (e.g. forms) should be adopted where applicable and possible to allow comparisons between products and services of the same nature. Specific disclosure mechanisms, including possible warnings, should be developed to provide information commensurate with complex and risky products and services. Where possible consumer research should be conducted to help determine and improve the effectiveness of disclosure requirements.

10. The provision of advice should be as objective as possible and should in general be based on the consumer's profile considering the complexity of the product, the risks associated with it as well as the customer's financial objectives, knowledge, capabilities and experience.

11. Consumers should be made aware of the importance of providing financial services providers with relevant, accurate and available information.

E. Financial Education and Awareness

12. Financial education and awareness should be promoted by all relevant stakeholders and clear information on consumer protection, rights and responsibilities should be easily accessible by consumers. Appropriate mechanisms should be developed to help existing and future consumers develop the knowledge, skills and confidence to appropriately understand risks, including financial risks and opportunities, make informed choices, know where to go for assistance, and take effective action to improve their own financial well-being.

13. The provision of broad based financial education and information to deepen consumer financial knowledge and capability should be promoted, especially for vulnerable groups.

14. Taking into account national circumstances, financial education and awareness should be encouraged as part of a wider financial consumer protection and education strategy, be delivered through diverse and appropriate channels, and should begin at an early age and be accessible for all life stages. Specific programmes and approaches related to financial education should be targeted for vulnerable groups of financial consumers.

15. All relevant stakeholders should be encouraged to implement the international principles and guidelines on financial education developed by the OECD International Network on Financial Education (INFE). Further national and international comparable information on financial education and awareness should be compiled by national institutions and relevant international organisations in order to assess and enhance the effectiveness of approaches to financial education.

F. Responsible Business Conduct of Financial Services Providers and Authorised Agents

16. Financial services providers and authorised agents should have as an objective, to work in the best interest of their customers and be responsible for upholding financial consumer protection. Financial services providers should also be responsible and accountable for the actions of their authorised agents.

17. Depending on the nature of the transaction and based on information primarily provided by customers financial services providers should assess the related financial capabilities, situation and needs of their customers before agreeing to provide them with a product, advice or service. Staff (especially those who interact directly with customers) should be properly trained and qualified. Where the potential for conflicts of interest arise, financial services providers and authorised agents should endeavour to avoid such conflicts. When such conflicts cannot be avoided, financial services providers and authorised agents should ensure proper disclosure, have in place internal mechanisms to manage such conflicts, or decline to provide the product, advice or service.

18. The remuneration structure for staff of both financial services providers and authorised agents should be designed to encourage responsible business conduct, fair treatment of consumers and to avoid conflicts of interest. The remuneration structure should be disclosed to customers where appropriate, such as when potential conflicts of interest cannot be managed or avoided.

G. Protection of Consumer Assets against Fraud and Misuse

19. Relevant information, control and protection mechanisms should appropriately and with a high degree of certainty protect consumers' deposits, savings, and other similar financial assets, including against fraud, misappropriation or other misuses.

H. Protection of Consumer Data and Privacy

20. Consumers' financial and personal information should be protected through appropriate control and protection mechanisms. These mechanisms should define the purposes for which the data may be collected, processed, held, used and disclosed (especially to third parties). The mechanisms should also acknowledge the rights of consumers to be informed about data-sharing, to access data and to obtain the prompt correction and/or deletion of inaccurate, or unlawfully collected or processed data.

I. Complaints Handling and Redress

21. Jurisdictions should ensure that consumers have access to adequate complaints handling and redress mechanisms that are accessible, affordable, independent, fair, accountable, timely and efficient. Such mechanisms should not impose unreasonable cost, delays or burdens on consumers. In accordance with the above, financial services providers and authorised agents should have in place mechanisms for complaint handling and redress. Recourse to an independent redress process should be available to address complaints that are not efficiently resolved via the financial services providers and authorised agents internal dispute resolution mechanisms. At a minimum, aggregate information with respect to complaints and their resolutions should be made public.

J. Competition

22. Nationally and internationally competitive markets should be promoted in order to provide consumers with greater choice amongst financial services and create competitive pressure on providers to offer competitive products, enhance innovation and maintain high service quality. Consumers should be able to search, compare and, where appropriate, switch between products and providers easily and at reasonable and disclosed costs.

II. RECOMMENDS that Members ensure the widest possible dissemination of these Principles and encourage their active use by all relevant stakeholders, including consumer and private institutions.

III. INVITES non-Members to take due account of and adhere to this Recommendation.

IV. INSTRUCTS the Committee on Financial Markets to monitor the implementation of this Recommendation and report to the Council not later than three years following its adoption, and as appropriate thereafter.

¹ Where relevant, appropriate mechanisms should be developed to address new delivery channels for financial services, including through mobile, electronic and branchless distribution of financial services, while preserving their potential benefits for consumers.

² Authorised agents are understood to mean third parties acting for the financial services provider or in an independent capacity. They include any agents (tied and independent agents) brokers, advisors and intermediaries, etc.

³ Financial services providers and authorised agents should provide clear, concise, accurate, reliable, comparable, easily accessible, and timely written and oral information on the financial products and services being offered, particularly on key features of the products and (where relevant) on possible alternative services or products, including simpler ones, they provide. In principle, information should include prices, costs, penalties, surrender charges, risks and termination modalities.