



Organisation for Economic Co-operation and Development

DAF/CMF/FCP/RD(2017)2/FINAL

Unclassified

English - Or. English

12 February 2018

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMMITTEE ON FINANCIAL MARKETS**

Task Force on Financial Consumer Protection

CONSIDERATIONS FOR THE APPLICATION OF THE G20/OECD HIGH-LEVEL PRINCIPLES ON FINANCIAL CONSUMER PROTECTION TO DIGITAL AND ALTERNATIVE FINANCIAL SERVICES

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JT03426616

Considerations for the Application of the G20/OECD High-Level Principles on Financial Consumer Protection to Digital and Alternative Financial Services

1. The rapid evolution of technology and its application to financial services presents a challenge to ensuring that the frameworks that policy makers, regulators and supervisors rely on continue to be relevant and effective in their objectives. Furthermore, the vast range of applications being developed and the technologies that they rely upon make it even more difficult to keep up with the changing financial landscape and to identify emerging challenges and risks that these developments present given the framework in place.

2. This document aims to identify areas where technological innovation and the digitalisation of financial services may present challenges or opportunities for the effective implementation of the G20/OECD High-Level Principles on Financial Consumer Protection and to highlight areas which may require increased attention. In some cases, technological innovation may require the modification of existing definitions in order to remain applicable in the new financial landscape. In other cases, new rules may need to be put in place in order to maintain adequate levels of consumer protection or they may need to be modified in order to accommodate innovations which can have real benefit for consumers. Technological innovations and digitalisation may also present an opportunity for policy makers to enhance financial consumer protection and be used to improve the effectiveness of the Principles.

3. The discussion that follows also highlights that the Principles themselves remain highly relevant for the evolving financial ecosystem, even if new or modified approaches may be needed to effectively implement the Principles. This enforces the confidence in the framework that the Principles provide to assess the adequacy of existing measures to ensure financial consumer protection and effectively implement additional measures which may be needed to adapt to the digitalisation of financial services.

4. As a next step, the Task Force will continue its ongoing work to contribute and support effective financial consumer protection frameworks and their implementation in the digital era. This ongoing work comprises:

- Building on the discussion presented in this document, to continue to act as a depository of Effective Approaches and develop these further for each Principle to apply to the relevant aspects of digital and alternative finance. This involves developing the Effective Approaches/guidelines as they relate to the implementation of the High-Level Principles in the context of the increased digitalisation of the Financial system
- Taking a thematic approach, and focussing on specific issues particularly relevant to the mandate of the Task Force and the OECD in this space. Depending on members' priorities, such issues could include:

- Cross-border challenges and related cooperation between different oversight bodies (including complaints handling issues)
- Regulatory and oversight bodies capacities and potential changes needed
- Disclosure and financial advice and what they mean in the digital era
- Unfair practices
- Consumer decision-making in the fintech environment (automation, black boxes etc.)
- Fraud and data privacy issues.

1. Legal, Regulatory and Supervisory Framework

1.1 Institutional arrangements

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.

5. The new business models in financial services that are being driven by technological innovation present a challenge to sectoral-based approaches to financial consumer protection. These new models may not fit neatly into the traditional view of regulated activities and the pre-defined categories of banking, pensions, insurance or securities, particularly given the shift towards the disintermediation of financial services and peer-to-peer platforms. The existing sectoral boundaries and definitions may need to be modified to ensure that these new financial services and products are appropriately regulated and consumer protections are ensured. Consideration also needs to be given to cross-over in scope with regulatory authorities in other sectors, e.g. telecommunications, taxation, national data security etc.

6. Given that technological innovations are primarily driven by data and that the processing of data has been increasing exponentially, it will also be increasingly important that data protection agencies are involved in financial consumer protection. The input of these agencies will be required to ensure on one hand that consumer data remains protected, but on the other that the rules in place do not impede the sharing of data where consumers could benefit, for example the sharing of data across regulatory bodies and the cooperation of agencies to make the regulatory and supervisory processes more efficient.

7. The speed of technological innovation in financial services and the specialised knowledge that may be required to understand the technical underpinnings of the services being developed implies that dedicated resources may be needed to monitor developments and the emerging risks and implications for financial consumer protection. Having such expertise in place could not only help ensure that consumer protection rules keeps up with the innovation in financial services, but also could help to exploit the use of technology to make the identification of risks more effective. For example, advanced data analytics could help to identify emerging trends and consumer risks.

1.2 Market considerations

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. Strong and effective legal and judicial or supervisory mechanisms should exist to protect consumers from and sanction against financial frauds, abuses and errors. Financial services providers and authorised agents should be appropriately regulated and/or supervised, with account taken of relevant service and sector specific approaches.

8. Financial markets will need to be carefully monitored to ensure that new and emerging business models and products are being appropriately regulated. Mechanisms need to be in place to quickly adapt to changes in the financial landscape.

9. One aspect which may need increased attention is registration and/or licencing requirements, which may not be clear for the new business models being developed. New entrants to the market, who are less familiar with regulations, may not realise that they are required to register with the appropriate regulatory body, so these bodies may need to broaden their focus for monitoring market developments in order to identify potential cases. New business models may also render existing definitional requirements for registration or licensing inadequate. For example, the line between execution-only services and services providing a recommended investment is becoming blurred with the advent of robo-advice and social trading platforms. It may therefore not be obvious whether such services should be required to be registered as financial advisors.

10. Principles-based approaches requiring that products that demonstrate the same risks and features be subject to the same requirements helps to ensure a level playing field and reduces the risk of regulatory gaps or regulatory arbitrage. Principles-based approaches offer more flexibility to adapt to changing products and services than rules-based approaches, and allow for the regulation to be more future-proof to innovations in financial services and products. However, new firms entering the market may not be familiar with regulatory requirements and may have difficulty in determining their compliance with principles based requirements as compared to rules-based where the requirements are unambiguous. These firms may require additional support and interaction with regulators to ensure that their businesses are compliant. The use of regulatory sandboxes can be one way to facilitate such support, while retaining essential consumer protections (see paragraph 18).

11. Proportionality is important also to ensure a level playing field. Regulations should not pose an undue barrier to entry for small financial start-ups with innovative ideas which promise real consumer benefit, and proportionality can help to allow these firms to enter the market and prove their value. One way to allow for the proportionality of rules is through exemptions. Several jurisdictions have passed such exceptions for crowdfunding, for example, allowing smaller entities to be exempt from heavy regulatory compliance and licensing requirements, while retaining essential consumer protections.

12. Product-based rules will need to consider the rapidly increasing accessibility of a wide range of products and services to the mass retail market. For example, because of cheaper and more accessible trading platforms, retail consumers are gaining access to markets which were previously reserved primarily for institutional, high net-worth or very experienced investors. Product-focused rules may need to be reviewed to ensure that consumer protections are adequate given the newly targeted retail market.

13. The nature of financial transactions is also changing, so traditional definitions of financial provider and consumer may no longer hold. Peer-to-peer financial services in particular blur these definitions, and regulators will need to consider how rules will need to adapt.

1.3 Consultation with external stakeholders

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.

14. Regular consultation with stakeholders and, in particular, new entrants to the financial sphere and where practicable directly from consumers (and/or consumer organisations), will be valuable in obtaining feedback regarding the adequacy of the regulation in place and the potential gaps or impediments that it may present. Such consultations will also be useful to identify emerging trends or risks which should be more closely monitored. However, consultations will need to ensure that the views of all stakeholders involved are heard, and not be biased towards the views of incumbents who may have more resources to spend on dialogue and lobbying efforts.¹

15. The consultation process for policy initiatives will be especially important to ensure that any to rules, regulations, policies or guidelines will be effective and appropriate for innovative business models. However, the speed of change in financial services presents a need to make such processes timely and efficient in order to be able to more quickly adapt.

¹ This is a concern, for example, with respect to the second payment services directive of the EU. <https://www.ft.com/content/65342eb2-e7ab-11e6-893c-082c54a7f539>

2. Role of Oversight Bodies

2.1 Oversight body function and responsibility

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.

16. Oversight bodies will need to ensure that their staff have the knowledge and competence to identify and understand potential risks to consumers to do their jobs effectively. Targeted training and development programs will probably be needed to ensure that their staff is up-to-date with the latest technological developments and their applications.

17. The ease with which cross-border transactions can be carried out through digital financial services implies that cross-border issues will require an increasing amount of attention to ensure that adequate consumer protections are in place. Mechanisms will need to be in place to closely monitor this space.

2.2 Enforcement framework

Defined and transparent enforcement framework and clear and consistent regulatory processes.

18. Along with having a framework in place for enforcement, a framework could also be established in order to encourage innovative ideas that could benefit consumers to be tried and tested. This concept has been implemented in several jurisdictions in different ways. For example, a regulatory sandbox, where firms with innovative and often technologically-driven business ideas have the opportunity to test their idea without the need to fully comply with licensing requirements or the threat of regulatory action. Other frameworks are possible to encourage innovative ideas like a proportional regulatory approach. Regardless of the approach adopted, adequate consumer protections need to be ensured.

19. Technology could also be exploited to aid compliance with and enforcement of regulatory requirements. The application of technology to facilitate regulatory compliance, now commonly referred to as RegTech, has great potential to make complying with requirements more cost-efficient and transparent. This is particularly true of reporting requirements, which could be made more automated and comprehensive via digital platforms, reducing the cost burden of compliance while ensuring that consumer protections remain in place.

2.3 Professional standards

Oversight bodies should observe high professional standards, including appropriate standards of confidentiality of consumer and proprietary information and the avoidance of conflicts of interest.

20. In addition to ensuring that staff is qualified to carry out and enforce consumer protection measures for digital financial services, oversight bodies also need to take adequate measures to retain qualified and experienced staff. While this is not a new challenge, the technology driven businesses may attract a different type of profile for whom different types of measures will need to be taken to keep them engaged with and rewarded for their work. The increasing data and cyber security challenges may also mean that oversight bodies need to update their systems to ensure that sensitive information they hold is adequately protected.

2.4 Cooperation

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.

21. Blurred sectoral boundaries from new business models highlight the increased need for cross-sectoral cooperation and communication among regulators and supervisors. Mechanisms for this to occur will need to be in place to ensure a comprehensive and coherent regulatory framework which is relevant for the new business models and services being provided. In addition, the regular analysis of regulatory gaps through the mapping of financial services and products available in the market is also increasingly important given the speed of change in the financial landscape.

22. Cross-border cooperation among authorities may become increasingly important given the ease for cross-border transactions that digital financial services provide. This could be particularly important as the jurisdiction which has authority over a given transaction may at times be unclear for some transactions. There will need to be a coordinated effort to ensure the consistency of consumer protections offered.

23. International agreements may also be needed to govern the operation of cyberspace and to combat cybercrime and the theft of consumer data, as no one jurisdiction will be able to enforce such security on its own.

3. Equitable and Fair Treatment of Consumers

3.1 Fairness

All financial consumers should be treated equitably, honestly and fairly at all stages of their relationship with financial service providers.

24. Generally speaking, digital financial services are improving the accessibility of financial services to both the mass retail market and more vulnerable low-income groups, thereby serving to better equalise access to financial services for all. New business models are also providing real and tangible consumer benefits in terms of lower costs of products and services.

25. Nevertheless, given this increased access, it is even more important that these digital providers ensure that the products and services they are offering are appropriate for the consumers they are targeting. Product approval processes need to demonstrate that they consider the average level of financial literacy and financial needs of the market they are targeting, particularly given the direct-to-client nature of many of these services that do not rely on human intermediaries. The increasing use of technology underlying the service (e.g. algorithms) and/or the communication channels (e.g. chatbots) may also create challenges in terms of assessing whether consumers are being treated fairly (e.g. in terms of discrimination built into the underlying technology).

26. As certain business models become prevalent in the market, regulators and supervisors may want to consider issuing or supporting a Code of Practice for these models which put forward some recommended practices for the fair treatment of consumers. This could include standards of disclosure and transparency of costs as well as setting up and communicating the procedure for complaints handling, for example. Self-regulatory bodies may also be set up to create standards for certain industries, as has been done for peer-to-peer lending in the United Kingdom.

3.2 Governance and Culture

Treating consumers fairly should be an integral part of the good governance and corporate culture of all financial services providers and authorised agents.

27. The business models of innovative financial service providers should demonstrate that they are treating customers fairly. This can be a key criterion for the regulator/supervisor to authorise the provider to do business. For example, having a business model that offers real consumer benefit is already a common criterion for gaining access to the regulatory sandboxes which are being developed and having the support of the regulator in testing the viability of the business model in the market.

28. Several other key aspects of the business model of digital financial services can demonstrate that the business integrates the fair treatment of consumers into its business model. Websites, mobile applications and other platforms, for example, should be

transparent, user-friendly and easy to navigate, and should provide easily understood information on products, services and the business itself. Other aspects include avoiding discriminatory rules or designs in the underlying technology and, where relevant, ensuring consumer consent is explicit and verifiable. The support offered to consumers in the event that they have a problem or need help to understand certain aspects of the product or business is also an important indicator in demonstrating the fair treatment of consumers, especially given the reduction of physical branches and human intermediation of financial services. Consumers will need to have access to assistance that is effective in finding a solution to their problem. For models where human intermediation plays a key role in providing the financial service, the ability of these intermediaries or agents to understand the products they are offering and properly explain them to consumers is of vital importance. All of these aspects should be a part of the governance and culture of firms in order to ensure the fair treatment of consumers.

3.3 Vulnerable Groups/Access

Special attention should be dedicated to the needs of vulnerable groups.

29. Digital financial services present numerous opportunities to increase access to financial services and thereby increase financial inclusion. The way in which these services are accessed therefore needs to cater to groups who may be vulnerable, unable or unfamiliar with operating digitally. In particular, the use of digital services and access to products should be developed and presented in a way that is easy for consumers to use and to understand, and information should be available in the local or commonly used language of the area from which they are accessed. The presentation of information should also be appropriate to the device from which these services are commonly accessed (e.g. mobile telephone).

30. Attention should also be paid to how behavioural biases may come into play with the use of these services, and whether these biases can be exploited for consumer benefit as for consumer harm. The potential for digital platforms to simplify and limit the range of choices for individuals can present significant benefit by helping to improve consumer decision making. Nevertheless, the accessibility of these platforms may also exacerbate the tendency for consumers to invest impulsively and make it easier for them to quickly invest without reflection and to skip over relevant disclosures, resulting in the purchase of products or investments which they do not really understand and may not be appropriate for their needs. Biases can also be exploited through targeted advertising which attracts specific profiles and interests of the individual, which could increase their tendency to invest in a product even if it may not be in their best interest.

31. While the digitalisation of financial services can promote financial inclusion, it may also increase the risk of exclusion for some groups. Elderly consumers, for example, may not feel as comfortable managing their finances through computers or mobile devices, and may face reduced access to physical bank branches as financial services go digital. The use of big data for pricing financial products may also present a risk for the access for certain groups. This may be a particular concern for insurance, where higher risk populations could be charged unaffordable premiums, making them effectively uninsurable. There is also the risk that such pricing inadvertently discriminates against certain groups to the extent that the data it relies upon reflects human bias and prejudice. Nevertheless, big data also presents an opportunity to increase the access of vulnerable groups to certain markets, for example through improved techniques for credit scoring which could lead to improved access to credit.

4. Disclosure and Transparency

4.1 Key Information about the Product or Service

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. 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. 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.

32. A key issue in the disclosure for digital financial products and services is the comparability of disclosures across different providers. Digital platforms often fall outside of existing disclosure requirements with respect to what information are needed and ensuring that information can be easily understood. New products and services will need to be subject to disclosure requirements to ensure that consumers can more easily shop around, compare products and make an investment decision which is in their best interest.

33. However, even if there are requirements in place as to what information needs to be included, the use of mobile devices to access financial services presents a challenge to present disclosures effectively. All of the key information may not be able to be clearly presented on smaller screens, implying the means of disclosure may need to adapt and use other formats for different channels of access. Video disclosures, for example, may present an option for effectively disclosing key information in a way which will engage consumers. Testing the effectiveness of disclosures for various points of access will be increasingly important. Mobile devices may offer an opportunity in some cases to make disclosure more effective, for example through warnings when specific fees are incurred via text messages.

34. The digital delivery of disclosure also present the risk that consumers will not fully understand the information they receive even if they read it, and that there will not be a physical intermediary present to gauge their understanding. Other approaches to ensure that consumers have read and understood the relevant information will need to be developed, perhaps through engaging the consumers with follow-up questions or quizzes to test their comprehension.

35. Engaging consumers in their financial decisions is especially challenging in a digital environment, where transactions can be quickly executed in a few clicks. In addition to innovative disclosure formats making use of the digital environment, bringing clearly to the consumer's attention the key pre-contractual and contractual information eg through summarising key terms and conditions, and forcibly slowing the purchasing decision by imposing a lapse of time before the transaction can be executed may allow for needed time for the consumer to digest the product information provided.

4.2 Conflicts of Interest

Financial services providers and authorised agents should also provide information on conflicts of interest associated with the authorised agent through which the product is sold.

36. Similarly, existing requirements to disclose conflicts of interest relating to the product sold may not always apply to new digital delivery channels. New products and services will need to either be included by enlarging existing requirements or requirements which can better adapt to changes in the financial landscape will need to be put in place. New approaches may also be needed to detect any potential conflicts of interest that may be coded directly into services based on algorithms.

37. The growth of small start-up financial service providers partnering with incumbents and the trend for incumbents to create their own digital spin-off services present a particular issue with respect to conflicts of interest. Any incentives for such arrangements to offer in preference the products and services of the parent company will need to be made clear to consumers.

4.3 Provision of Advice

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.

38. A key issue in the provision of advice via digital channels is the definition of advice itself, and thereby what disclosure and transparency requirements should be applicable. There is a fine line between providing a general recommendation for a generic individual with certain characteristics (e.g. a female five years away from retirement) and providing a personalised recommendation considering an individual's particular circumstances. This definition can determine what personal circumstances need to be taken into account, and as such this definition will need to be clarified for platforms which potentially provide advice or recommendations, such as robo-advisors.

39. With that said, the provision of digital advice has the potential to make consumer profiling more accurate and efficient, provided that the relevant inputs are also accurate and complete. Recommendations based on algorithms can be free from the inadvertent biases of humans, ultimately resulting in more consistent and objective advice for a given consumer profile. Nevertheless, the objectivity of algorithms driving the advice as well as transparency and the options for recourse need to be assured.

40. Automated profiling can also make the generation of required disclosures of the justification of advice such as suitability reports more efficient and cost-effective, ultimately resulting in lower cost to consumers.

4.4 Promotional Material

All financial promotional material should be accurate, honest, understandable and not misleading.

41. The ability for providers to use targeted advertising increases the risk of consumers to click and purchase unneeded or unsuitable products or services, and it may

be easier for promotions to subtly mislead consumers. This heightens the importance of having rules in place which apply to online/digital advertising and of ensuring the provision of effective disclosure.

42. However, here again, the size of the device on which the promotional material is viewed presents a challenge to make the required information appear prominently and legibly. Requirements may need to specify that the viewing device needs to be taken into account.

43. Electronic based communication with consumers also means that the financial providers automatically have records on the consumers, including their contact details, which facilitates unsolicited communication by the provider in question or others. Controls may need to be put in place to further protect consumers from such advances, which will also relate to data protection and privacy.

4.5 Specific Disclosure Measures

Specific disclosure mechanisms, including possible warnings, should be developed to provide information commensurate with complex and risky products and services.

44. The new types of products and risks that are emerging with technological innovations, which may not be covered by existing rules, make the ability to require specific disclosure measures related to these risks quite important. This is especially the case for new types of investments which may resemble familiar investments which present much less risk to consumers. The risks related to peer-to-peer lending, for example, need to be better emphasised. Consumers may relate these invests to bank or savings deposits and significantly underestimate the risks that they face.² Similarly, consumers may not realise that purchasing cryptocurrency such as bitcoin could expose them to a loss in value, associating such currencies with cash. These risks need to be disclosed to consumers before they invest.

4.6 Consumer Research

Where possible consumer research should be conducted to help determine and improve the effectiveness of disclosure requirements.

45. Consumer research, e.g. behavioural testing, should be carried out to determine the effectiveness of disclosures not only for different viewing devices, but also different media format. While digital devices present their own challenges for making disclosure effective, they also may present great opportunities to further engage consumers in understanding key features and risks by increasing the interactivity of disclosure. Determining the most effective means, however, will require real-world testing.

4.7 Consumer Awareness

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

46. As with in-person recommendations, recommendations by digital platforms should take into account an individual's circumstances, and the importance of providing

² Financial Times, October 11, 2016, "We need tougher regulation, say peer-to-peer lenders". <https://www.ft.com/content/b3c2c6ac-8bca-11e6-8aa5-f79f5696c731>

accurate and complete information needs to be communicated to the consumer. One challenge to obtaining such information, however, may be the relative anonymity of consumers vis-a-vis the financial provider when facing a digital interface rather than a live person. In a live interview the financial intermediary could ask relevant follow-up questions to confirm the accuracy of the response or to provide additional relevant details. This feedback would not be provided when filling out an online form. Furthermore, some evidence indicates that anonymity may decrease the accuracy of responses relating to self-assessment and an individual's sense of accountability for their answers.³ Alternative ways to solicit accurate responses or otherwise engage consumers more in the process may need to be considered.

³ See, for example, Lelkes et al. (2012), "Complete Anonymity Compromises the Accuracy of Self-Reports".

5. Financial Education and Awareness

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.

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

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.

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.

47. The OECD/INFE has developed a report on "*Ensuring Financial Education and Consumer Protection for All in the Digital Age*" that addresses the importance and challenges of the digitalisation of finance for consumers relating to Financial Education and Awareness. The report is based on the findings from a stocktaking survey across INFE membership and inputs from G20 bodies, and can be used as a reference for the effective approaches for the implementation of Principle 5 as it relates to digital finance. The report which was circulated to Task Force Members in January has been finalised and was circulated at the upcoming FMCBG meeting in Baden-Baden in March 2017. The following paragraphs point to relevant findings from this report.

48. There are several areas relating to financial education and awareness to which authorities may need to give additional attention given the digitalisation of financial services. Along with the increased accessibility of financial services and the ease of transactions comes the risk that consumers will borrow or invest without fully taking the time to understand the potential risks involved. Measures need to be put in place to counter impulsive purchases or investment and ensure that consumers understand the product. Regardless of the channel through which they access financial services, consumers need to be made aware of their rights and responsibilities with respect to their engagement with the financial service provider and their purchase or investment.

49. Nevertheless, the digitalisation of financial services presents great opportunities for initiatives to improve consumer financial education and awareness. Online services, in particular, provide a platform on which to complement financial services with interactive tools which can promote consumer understanding of financial concepts and help consumers to better manage their finances.⁴ Interactive tools could also be used to simulate potential outcomes from a given product before consumers commit, helping them to understand the potential risks of the product they are considering and choose the most appropriate product for their needs. Technology can also be used to engage consumers once they have borrowed or invested, for example by sending text messages to remind consumers to make a deposit or update their financial goals.

50. Furthermore, the automatic data captured by digital platforms and the educational tools offered can be analysed to help assess levels of financial education and the effectiveness of initiatives to improve financial education. Such data could be a valuable resource to inform the development of national strategies for financial education.

⁴ See example from Tanzania <http://www.cgap.org/blog/interactive-sms-drives-digital-savings-and-borrowing-tanzania>

6. Responsible Business Conduct of Financial Service Providers and Authorised Agents

6.1 Best Interest

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.

51. One challenge to enforcing the principle that financial service providers should act in the best interest of consumers is the trend towards disintermediation of financial services. In an environment where transactions are increasingly being conducted on a peer-to-peer basis, attributing the responsibility of maintaining the best interest of clients becomes more difficult.

52. This issue also relates to the definition of what constitutes a recommendation and what can be considered merely information and guidance, particularly where such information is generated through algorithms. Having a precise and clear definition of what is to be considered as a recommendation and who is responsible for providing it will clarify the responsibilities of the financial intermediary and aid in enforcing the best interest standard where it is applicable.

6.2 Assessing Consumer Needs

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.

53. With the digitalisation of financial services, and in particular with respect to robo-advice, the assessment of consumer needs is also becoming increasingly automated. This presents both challenges and opportunities for having a thorough and accurate assessment of what type of product or investment is suitable for the consumer.

54. Where questionnaires are used to gather information about the consumer's situation and their preferences, the design and the way questions are worded will play a large role in the accuracy of the ultimate assessment that is generated. Questions will need to be comprehensive to ensure that consumers do not leave out important information, particularly where questions cannot be asked to follow-up on responses which may not seem complete.

55. Advanced data analytics also have the potential to improve the assessment of consumer needs through the consideration a broad range of characteristics that could impact the suitability of a product or investment. However, such assessments would need to be closely monitored to ensure that the outputs are reasonable. Consumers should be

informed of such analytics and have recourse to correct mistakes or object to decisions being taken on their behalf.

6.3 Staff Training

Staff of financial services providers and authorised agents (especially those who interact directly with customers) should be properly trained and qualified.

56. The digitalisation of financial services requires that those involved in the development of such services have the technological skills to create the platforms, the interface, and the algorithms behind them, but these individuals may not necessarily have the relevant financial knowledge. Furthermore, the development of platforms may be outsourced to companies or individuals who do not fall within the jurisdiction of the financial regulator.

57. The development of these platforms, particularly those which provide recommendations or automatically execute investment transactions, will need to be performed or overseen by individuals with knowledge of both domains. Regulators will need to consider whether it is necessary to increase or expand the qualification requirements applied and to which individuals they should apply. In addition to training and qualifications, it will be important to ensure there is appropriate monitoring of the actions of staff and/or technology platforms, as well as taking corrective measures where necessary.

58. For digital financial services which rely on agents as intermediaries, financial providers will need to ensure that these agents are sufficiently trained and supervised to be able to explain the process and answer any questions that the consumer may have, including consumers unfamiliar with operating digitally.

6.4 Remuneration Structure

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.

59. The need for remuneration structures to not create inappropriate incentives for financial service providers or their agents is just as relevant for digital financial services. The regulation in place needs to ensure that these services and the relevant intermediaries fall within the scope of the requirements. They also need to consider the incentives of providers and intermediaries with respect to overall resources, including compensation. For example, agents for digital financial services with tiered fee structures are incentivised to only transact amounts at the bottom of the tier to maintain higher levels of liquidity for the same amount of compensation.⁵

60. Digital financial services also present new considerations with respect to who may face inappropriate incentives with respect to their remuneration. For example, the incentives for the developer of the algorithms underlying a robo-advice platform should be considered, as their compensation should be independent of the resulting

⁵ CGAP (2015), "Doing Digital Finance Right: The Case for Stronger Mitigation of Customer Risks".

recommendations made. Another example could be individuals who are compensated from getting other peers to follow their trading strategies on social trading platforms.

6.5 Responsibility for Authorised Agents

Financial services providers should also be responsible and accountable for the actions of their authorised agents.

61. The responsibility of authorised agents for digital financial services is particularly relevant with respect to outsourced activities. Financial service providers should retain ultimate responsibility for outsourced development activities and the ultimate liability for potential harm to consumers in the event that there is an error, fraud or misconduct.

62. The responsibility for authorised agents may need further consideration in the case of digital financial service providers who operate in reliance on branchless agents who distribute the service or products. For example, firms which operate as insurance intermediaries in developing countries can provide the back-end tech platform with which insurance products are delivered, while an insurance company provides the insurance and distribution agents are relied upon for sales.⁶ In such cases, it is not clear whether the intermediary or the insurance provider should be responsible for the conduct of the agents distributing the product.

6.6 Conflicts of Interest

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.

63. The conflicts of interest that financial service providers face may not always be obvious, and not all types of providers - even those with similar business models - are compensated in the same way. Some robo-advisors, for example, charge transparent fees to the consumer and otherwise receive no compensation from the funds that they offer. Others, however, may charge the consumer lower fees but receive kickbacks from offering certain funds, creating a conflict of interest with respect to their fund selection.

64. The trend for incumbent firms to develop spin-off digital financial service providers may also present an issue of conflicts of interest. Such entities may have an incentive to only offer the products of the parent company, which may also imply higher costs to the consumer compared to independent firms, whereas these additional costs may not be transparent to the consumer.

⁶ See the example of BIMA in DAF/AS/WD(2016)13 "Draft report on technology and innovation in the insurance sector".

7. Protection of Consumer Assets against Fraud and Misuse

7.1 External and Internal Frauds

Relevant information, control and protection mechanisms should appropriately and with a high degree of certainty protect consumers' deposits, savings, and other similar financial assets, against frauds.

65. New technologies and digital financial transactions are creating opportunities for new approaches to commit fraud, and online bank fraud is a huge and growing threat to consumers. The rapidity that technology offers for consumer transactions can also assist fraudsters to obtain funds quickly, and the nature of fraud through digital channels can make it difficult to trace the source. Financial service providers will need to remain vigilant and up-to-date with emerging methods to scam consumers, and ensure that consumers are warned about the types of scams occurring.⁷

66. Where fraud originates from a consumer's password being compromised, it may be very difficult for the consumer to prove that they were not the source of the transaction or that they did not authorise it. Financial service providers will need to strengthen identity verification techniques to validate transactions, for instance through the use of two-factor authentication methods or biometric identification, which would be more difficult to compromise.

67. Technology also presents an opportunity for regulators to improve fraud detection, however. Artificial intelligence and machine learning, for example, could be used to monitor unusual market behaviour and could aid in the detection of any manipulation of financial markets.

7.2 Misappropriation

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

68. New technologies may help protect consumers against the risks of misappropriation of their financial assets. Distributed ledger technology (DLT), in particular, may improve the recordkeeping of transactions and make it more difficult to hide or falsify financial transactions, offering increased transparency for all stakeholders. Nevertheless, the risks currently remains that collusion can occur to siphon funds, and more work needs to be done to reduce the risk of such breaches.

⁷ For example see *Fraud in Mobile Financial Services: Protecting Consumers, Providers and the System*, CGAP, April 2017

7.3 Unclaimed Assets

Arrangements in place in order to protect the owners or the beneficiaries of unclaimed assets.

69. The use of online wallets for digital currencies may present a challenge to ensuring that beneficiaries can have access to the assets after their owner dies. First of all, finding and/or determining ownership of wallets may be difficult due to the anonymous nature of digital currency transactions. Secondly if the passwords to unlock wallets are not known, unlocking the wallet will not be possible.

70. Some firms are starting to offer digital will services which handle the transfer of an individual's digital assets after death. As larger proportions of consumer assets are stored digitally, having such arrangements in place will be increasingly important.

7.4 Winding up procedures

Relevant information, control and protection mechanisms should appropriately and with a high degree of certainty protect consumers' deposits, savings, and other similar financial assets, against FSP winding up procedure.

71. Regulators will need to ensure that any requirements for financial service providers to participate in an investor, policyholder or depositor guarantee scheme will also be applicable to digital financial service providers. This is particularly important as many of the new business models being developed have their viability yet to be tested in the long-run or in the face of extreme market shocks or stress. Consumer assets will need to be protected in case these models are not viable in the long-run and end up failing.

8. Protection of Consumer Data and Privacy

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.

72. The increased generation of data from various types of financial transactions raises the question of data ownership and who should be allowed to make use of the data. The question of ownership is not only important for determining whether consent is needed for the use and analysis of the data, but also to determine who is responsible for its protection.

73. Consumer data is increasingly being used to analyse and assess consumer risk relating to financial products. Whether consent is needed for this use and how to obtain consent needs to be considered. The use of this data also has significant implications for the access to financial products and services. In some cases, such as insurance, higher risk consumers may lose access as products become too expensive. In other cases, such as access to credit, improved data analytics may provide access to individuals who otherwise would not be eligible based on more simplified criteria for risk assessment.

74. The sharing of consumer data also becomes an issue as consumers can benefit from the increased sharing of their data between financial providers as well as with regulators and supervisors. Consumers could benefit from streamlined processes to fulfil Know Your Customer requirements, for example, and more efficient processes for financial providers to comply with regulations as this should translate into savings in terms of both cost and time.

75. The storage of data also becomes increasingly important as financial services and products go digital. In addition to ensuring that this data is adequately protected, the issue of the longevity of storage will need to be considered. Electronic documents are replacing hard copies of financial statements and product information, and consumers will need to be able to continue to access their documents even if future technology changes and/or replaces the way data is currently being stored. Consumers should also have the right to have their data deleted if they close an account with a financial provider. Financial providers will need to ensure that its processes allow for the effective removal of consumer records and data.

76. The increased reliance on passwords to access financial services presents challenges to making sure that consumers take the necessary steps to protect their own data and passwords. Consumers may have difficulty keeping track of and remembering all of their passwords, leading them to choose overly simplistic passwords or to store them in an unsecure manner. They may also share them with family, friends or even the

intermediaries helping them to carry out transactions, increasing the risk that their passwords could be misused.

9. Complaints Handling and Redress

9.1 Complaint Handling and Redress Mechanisms

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.

77. Requirements to have a complaint handling process and redress mechanisms in place should apply equally to the new business models and distribution channels of digital financial service providers. Having such processes in place will help to take advantage of the potential of digital financial services to increase financial inclusion by fostering trust in the system, making individuals more willing to use the services offered.

78. The reduced reliance on human intermediaries in financial services should not impede consumer access to effective mechanisms to have their complaints heard and addressed. Processes still need to be in place to provide ways for consumers to file and resolve any complaints that they may have. All commonly used access points, such as through mobile phone applications, should make information on such processes available to consumers, including at least the channels used to sell any particular financial product or service.

79. The increased ease of cross-border transactions may raise questions as to which jurisdiction's rules apply with respect to providing redress to consumers. Increased international cooperation and consistency in rules may be required to ensure that consumers have access to effective mechanisms to resolve their complaints.

80. New business models and methods for delivering financial services raise new sources of potential consumer detriment for which the party that should be held accountable and responsible for redress may not be clearly defined. For example, consumer detriment could arise from the failure of an underlying algorithm or coding error, or from the failure of an exchange to prevent fraudulent transactions. Which party is responsible for consumer redress in such cases will need to be made clear to the consumer.

9.2 Internal Complaints Handling

In accordance with the above, financial services providers and authorised agents should have in place mechanisms for complaint handling and redress.

81. The requirements for internal complaints handling mechanisms need to apply equally to new types of financial service providers and the channels through which they are accessed.

82. The use of technology has the potential to facilitate and improve the process for accessing and following internal complaints handling procedures. For example, dedicated

platforms could be provided where consumers can directly follow the progress of their claim and proceed with the necessary steps.

9.3 Alternative Dispute Resolution (ADR) Mechanisms

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.

83. Independent ombudsmen need to have the authority to effectively challenge financial service providers handling of complaints arising from claims of fraud. In the shift to digital services, providers may have also shifted the liability for fraud onto their consumers and limiting their own financial responsibility for such claims. If ombudsmen do not challenge the fairness of such policies and fail to legitimise the complaints of consumers, consumers who have been the victims of fraud may not have access to redress.⁸

9.4 Complaints Data

At a minimum, aggregate information with respect to complaints and their resolutions should be made public.

84. In order for complaints data to be useful, complaints that are made need to be reported and classified as such. How financial service providers are tracking and reporting their complaints may need to be reviewed to ensure completeness and consistency for digital channels. For example, consumers reporting fraud due to a failure in a bank's authorisation process may not end up being reported in the data if the bank does not consider the complaint to be valid.⁶

85. The increase in available data generally may present a potential opportunity for authorities to improve their analysis of complaints data through advanced data analytics. Such techniques could facilitate the assessment of data and improve their capacity to identify potential risks for consumers.

⁸ The Guardian, 21 November, 2015, "So you think you're safe doing internet banking?".

10. Competition

10.1 Regimes and Institutional Architecture

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.

86. The new business models of digital financial service providers are challenging the approach of traditional players and bringing competition between these new players and financial incumbents to the forefront. Technology and the digital platforms that these new financial service providers rely upon make operations more efficient and allow them to pass these cost savings onto consumers, putting competitive pressure on traditional players to reduce their costs. Many players are also recognising the competitive advantage they can have in focusing more on consumer experience, resulting in better and easier-to-understand financial products and services for consumers. Furthermore, many of these new entrants are recognising the potential to provide financial services to previously untapped or underserved markets, allowing these new markets to realise the benefits of competition.

87. In order to ensure that consumers will be able to benefit from this increased competition and that adequate consumer protection measures are in place, regulators and supervisors will need to be diligent to ensure that existing regulatory requirements apply equally to new entrants to ensure a level playing field and that consumers are in a position to switch between competitors. However, the potential for existing requirements to impede market entry for new business models will also need to be reviewed, and rules modified if appropriate.

10.2 Comparability and Access

Consumers should be able to search, compare and, where appropriate, switch between products and providers easily and at reasonable and disclosed costs.

88. Digital comparison platforms have the potential to facilitate the search process for consumers and allow them to better choose the product offering the best value for them. Nevertheless, it will be important to ensure that such platforms are capturing all of the relevant features and costs of the financial products being compared and that the products shown are indeed comparable.

89. The introduction of such comparative platforms, however, may also introduce an additional intermediary cost, which would subsequently be passed on either to the consumer or to the financial provider. In the latter case, this could result in a lack of competitive advantage for new entrants with lower profit margins. The value that such platforms provide to consumers in terms of improved information and choice will

therefore need to be monitored and their own responsibilities towards the consumers must be clear and transparent.⁹

⁹ See for example CGAP research on pricing and transparency: <http://www.cgap.org/blog/interactive-sms-drives-digital-savings-and-borrowing-tanzania>