



Consumer protection deserves a central place

Speech by Theodor Kockelkoren, Chair of the G20/OECD Task Force on Financial Consumer Protection and acting chairman of the Netherlands Authority Financial Markets (AFM) at the international regulators Seminar of the UK FCA on 28 November 2013.

Introduction

Let me start by kindly thanking the FCA for inviting me to its first annual International Regulators' Seminar. It's a pleasure and privilege to join all of you this afternoon. As Chairman of the G20 / OECD Task Force on Financial Consumer Protection, I am thankful for the opportunity to discuss with you the important topic of financial consumer protection.

I think it is critical that we are provided with opportunities to learn from each other's insights and experiences in an efficient way. This is precisely one of the important aims of the task force. Today I will start with required central place of financial consumer protection in the efforts to recreate a more stable and fair financial system. Furthermore, I will expand on the role of the G20 Task Force and discuss the results delivered so far by the Task Force. Subsequently, I will present the issues the Task Force is currently working on. I will conclude by reflecting on how the topic of financial consumer protection can be sustained appropriately towards the future.

Consumer protection deserves a central place

I hope you will forgive me, as Chair of the G20/OECD Financial Consumer Protection Taskforce, by starting to highlight the strategic importance and necessity of Consumer Protection. Early on in the financial crisis, I think the G20 responded appropriately also by including the key topic of financial consumer protection on the international reform agenda. Let me explain this perspective.

Obviously, the crisis has shown us the fragility of the international financial system and the national systems underpinning it. And naturally, a lot of attention and energy is spent to improve the ability of this system to absorb shocks.

At the same time the crisis has also shown us in many markets the fragility of the trust people have (and sadly I have to say no longer have) in the willingness and capacity of their financial services

providers to act in the interest of their customers. With this withering trust, so is the social contract between financial sector and society eroding. The impact of these developments can be as (if not even more longer term) destructive as the instability seen in the system to date.

Therefore, it is appropriate the G20 is moving towards an holistic perspective when reshaping the financial system. Holistic in the sense that not only the stability of a financial institution is judged, but also its conduct towards the customers is evaluated. Both perspectives, stability and conduct, are of equal importance and should both be safeguarded – there should not be a trade-off.

We can intuitively grasp this, as no customer, how fair he or she is being treated, will want to deal with a bank that may go bankrupt anytime soon; and inversely, no customer will want to deal with a bank that is splendidly capitalized, yet horrifically at the expense of its customers. In the latter case, ironically, the bank will go bankrupt anyway, as the Netherlands has experienced with DSB bank in 2009. Sadly, we have seen more examples around the globe.

Although increasingly the importance of the fair treatment of customers is seen, one could ask: Why should we devote energy to this topic? Of course it is important that consumers are being treated fairly by their financial service providers. But are consumers not capable of looking after themselves? Should we not leave them to take their own responsibility?

The fundamental issue with financial markets is that they do not really operate as adequately functioning markets. Consumers of financial services all too often do not understand the product and services they buy. As a consequence they mostly do not give the right signals to competing firms. Here is in a nutshell why we cannot really speak of an adequately functioning market for financial services: firms compete, but they do not compete on price and quality.

Of course we all see that increasingly, across the world, more people are getting higher education. Some will go to university others will enter the workforce earlier. Nevertheless, whether product manager, factory operator, laboratory staff, nurse or fireman, all these people are relied on for their skills and knowledge. They have all been extensively trained. And yet, how counter intuitive this may be, they often lack the skills and knowledge to take full responsibility for their own financial wellbeing. Research after research shows that financial literacy is limited in many countries to less than half the adult population (including a sizable segment of higher educated adults). And may not even be increasing: some research suggests young adults perform worse than their parents.

The impact should worry us. As we have seen, financial safety, in the sense that people can trust to be treated fairly, is an absolute necessity for our market based economies. Yet, we seem to be failing this requirement. Even without the current crisis, there is an increasing number of people whose

money worries materially impact their wellbeing. Research as early as 2006 found one in four people in the UK to suffer relationship problems possibly leading to physical problems as a result of money related stress. You should expect these people's productivity to be reduced as well.

The immediate implication, I think, is that we continue to invest in financial education. It is clear that financial literate consumers are the best remedy for a failing market for financial services: they will bring virtuous life back to the market. However, it at best seems that we will only start to harvest significant results in a generation time, regardless the sums invested.

Meanwhile we can see clearly now another implication: if financial services firms do not really feel (and will not feel for a longer time) the pressure from their customers, and if the products and services of these firms are one of the pivotal requirements for prosperous and cohesive economies (in addition to regaining the at this point shattered trust in the financial sector at large), we should put explicitly the responsibility of treating customers fairly on the financial institutions. This brings us at the heart of Financial Consumer Protection.

Therefore, I am happy to see many initiatives on Financial Consumer Protection are being taken and stimulated, by international institutions such as the FSB, IOSCO, the European Supervisory Authorities, FinCoNet. The G20 Task Force aims to build on existing material and dovetail its efforts with the many recent initiatives. The Task Force feels it is can best contribute by taking a global, cross sectoral approach, on which I will elaborate shortly.

The OECD Task Force

In the Task Force members of the G20, the FSB and the OECD take part in the work, as well as standard setting bodies of all sectors in the financial markets, such as IOSCO, IAIS and FinCoNet. This diversity ensures a discussion which is broad as much as deep and general as much as detailed. The Task Force originates from 2010, as an OECD Task Force. In February 2011, the G20 Finance Ministers and Central Bank Governors called on the OECD, the Financial Stability Board and other relevant international organizations to develop principles on financial consumer protection.

In April 2011 the task force became a G20/OECD Task Force on Financial Consumer Protection and started work on developing ten high level principles¹, which were endorsed at the G20 Cannes Summit in November 2011.

¹ <http://www.oecd.org/daf/fin/financial-markets/48892010.pdf>

The principles have been designed to assist governments and regulators to enhance financial consumer protection. Principles like “Disclosure and Transparency”, “Fair and Equitable Treatment of Consumers” and “Responsible Business Conduct of Financial Services Providers and Authorised Agents” were included.

At the Los Cabos summit in Mexico, June 2012, the G20 leaders endorsed the action plan to identify effective approaches to support the implementation of the high level principles. The Task Force has delivered an update report for the G20 leaders summit in September 2013 and aims to deliver a final report for the G20 leaders summit in November 2014.

The Task Force aims to develop a so called “financial consumer protection toolbox”, in which a broad range of effective approaches are identified. The Task Force aims to focus primarily on approaches that are employed across different sectors. This cross sectoral approach I think is highly relevant, since different protection levels across sectors can lead to distortion of competition. Also, in decade long tenure as regulator I haven’t seen consumers who are able to distinguish between sectors when making use of a financial service. Therefore he or she cannot be expected to know let alone understand why he or she is protected differently in different sectors.

The effective approaches are identified by analyzing existing material and using surveys among the members. In this way a long list of approaches is created, which forms the basis of the expert discussions in the working groups of the Task Force as well as the plenary meetings. The discussions lead to a synthesized list of effective approaches which together form the toolbox.

The toolbox is structured by high level principle. Also a distinction is made between common effective approaches and innovative effective approaches. The common effective approaches are applied in a broader range of jurisdictions. The innovative approaches are more recently implemented in a few jurisdictions and are mostly considered as innovative.

The concept of common and innovative approaches was included because I believe that in order to find effective solutions in the changed dynamics, we should not only rely on longer standing experience we have, but we also look at more recent developments and experiments. I will give a couple of examples shortly.

The toolbox serves to inspire and stimulate the implementation of the high level principles as well as to share lessons learnt and foster new insights on what works well under which circumstances – as, naturally, local circumstances can be very relevant.

Our ambition is to keep the toolbox alive and to encourage countries, whether they are a member of the Task Force or not, to consider the effective approaches and where appropriate implement them in their own country.

Examples of effective approaches

Please let me provide you with some examples which draw from the update report² that was presented to the G20 Leaders Summit of last September. Hopefully this gives you some food for thought and discussion. The report considered three priority principles, namely “transparency and disclosure”, “responsible business conduct” and “complaint handling and redress”.

Before I start with the examples for the first two principles on Transparency and Responsible Business Conduct, it is worthwhile mentioning that research and experience have proven that transparency by itself is no guarantee for optimal consumer protection. Although transparency can play an important role in the decision-making process of consumers, it does not solve a few weaker links in the chain, namely the bounded rationality of consumers and the conflicts of interest of both financial services providers and advisors.

The update report concludes that business conduct and transparency cannot be considered or approached separately. The examples I share therefore do not focus on transparency OR responsible business conduct, but on transparency AND responsible business conduct.

For a larger number of countries, acting in the best interest implies –amongst other things- that adequate and objective information is provided as well as duty of care in the case that transparency alone is not sufficient. It also implies that the needs, financial situation, attitude of risk and the interest of the consumer are taken into account before an advice is given.

A more intrusive and newly emerging approach, which we have implemented in the Netherlands, is the obligation that financial services providers implement adequate product approval processes to ensure that products are fit for the targeted group of consumers. Where this is not the case, the supervisor has the power to intervene.

Let me also give some examples related to the conflicts of interest of staff and authorised agents of financial services providers. It is perceived as a common approach that consumers are adequately informed about potential conflicts of interest –such as the existing link between financial services providers and their agents- and its possible consequences and that this happens before the advice or

² <http://www.oecd.org/daf/fin/financial-education/G20EffectiveApproachesFCP.pdf>

intermediation.

Less common, but not less interesting is the approach where financial services providers and authorised agents are obliged to even decline to provide a product, advice or service in the case that conflicts of interest put the consumer at risk.

Also less common, but increasingly debated across the globe, is the approach to ban certain fundamental conflicts of interests such as those that arise from the payment of inducements from product manufacturers to distributors.

For the principle on Complaint handling it is considered to be a common approach that financial services providers and their agents have clear procedures for complaint handling and redress and it is considered to be innovative when regulators and/or supervisors provide a mechanism whereby all stakeholders participate.

Remaining principles

Before I conclude I want to lift a corner of the work in progress for the remaining principles. A survey has been sent out to the members, but I can already name some of the topics that are of interest for us.

With regard to the principles on the legal, regulatory and supervisory framework and the role of oversight bodies, we expect to find effective approaches which point in the direction of a more dominant place for financial consumer protection and clearer objectives for the responsible supervisory agencies.

Concerning the principle on fair and equitable treatment of consumers, we hope to learn how to ensure that treating consumers fairly is an integral part of the good governance and corporate culture of players on the financial markets. The effective approaches on the principle of competition may help, as they can create pressure on providers to offer competitive products and to maintain high service quality.

Finally we look forward to find specific measures which protect the consumers' deposits, savings and other assets against fraud, misappropriation and other misuse as well as measures which protect the consumers' financial and personal information through appropriate controls.

All these effective approaches will be collected and analysed through written procedure and in various task force meetings. The objective of the Task Force is to present a final report on the remaining principles to the G20 Leaders Summit in November 2014.

To conclude

Let me conclude. I have discussed at length the crucial importance of financial consumer protection. I have argued it deserves a central place next to safeguarding the stability of the financial system. I hope I have given you a flavor of what the G20 Task Force is doing and how it is cooperating with other initiatives.

Now, the Task Force will finish by the end of 2014 the construction of the toolbox, which we hope will inspire and support jurisdictions across the globe in implementing effective Financial Consumer Protection measures.

Beyond 2014, it is of crucial importance that financial consumer protection remains at the heart of supervision. This is merited by its importance as well as the quick developments in this relatively new field, for example in the area of behavioral finance.

It is my wish and hope we can create a clearing house of exchange of experiences and a means to keep the toolbox alive. Having such a platform enables us to constantly learn from each others' practices and to keep it tuned with the rapidly developing area of financial consumer protection. Thus, we can all develop effective Financial Consumer Protection that fit our local markets, and in this way contribute to rebuilding trust in our financial system.