



Consumer Empowerment and Market Conduct (CEMC) Working Group

Consumer Empowerment and Market Conduct Sales and Marketing Practices

This guideline note was developed by AFI's Consumer Empowerment and Market Conduct (CEMC) Working Group to support the work of policymakers in the design and implementation of national sales and marketing policies and regulations.

The AFI Consumer Empowerment and Market Conduct (CEMC) Working Group was created to provide a platform for policymakers in the AFI Network to explore policy and regulatory issues related to consumer empowerment initiatives and market conduct regulations. Since it launched in 2011, the CEMC Working Group has brought together diverse members from across the AFI Network, leveraging interest in this area to develop a common understanding of best practices and cost-effective policy tools that can be adopted at national and global levels.

This guideline note was developed through the collaborative efforts of the CEMC Working Group's Sales and Marketing Practices Subgroup.

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Context

Reconciling financial inclusion and consumer protection policies is always a challenge. While policymakers provide incentives for financial services providers (FSPs) to make a wider variety of financial products and services available, the reality is that access is not enough. Consumer protection and financial education initiatives must also be in place to ensure that consumers select financial products and services appropriate to their needs and understand how to use them. There should also be mechanisms for ensuring that consumers can access financial products and services with confidence and that FSPs treat them fairly.

This guideline note draws on the findings of a CEMC Working Group survey of AFI member countries to make recommendations for improving sales and marketing practices.¹ The guidelines apply specifically only to regulated FSPs and are deliberately broad to allow regulators to adapt them to their country context. The guidelines have been informed by expert findings in the field of consumer protection and market conduct regulation, as well as by the experiences of AFI member countries that have gained major ground in this area.

Purpose and Critical Issues

The CEMC Working Group survey revealed the various regulatory approaches AFI member countries are taking to sales and marketing practices. In most countries, the regulatory requirements apply primarily to banks, but a number of jurisdictions also cover products and services offered by other FSPs, including financial advisers. In countries with active industry associations, industry codes of conduct serve to enforce good behavior on the part of members. These codes of conduct primarily cover the products and services of banks and insurance companies.

Appropriate sales and marketing conduct drives consumer confidence in markets where trust is king. There are various ways of ensuring that the market behaves ethically and for the greater good. These may include market-led actions through self-regulation or even consumer organizations. In most developing and emerging countries, governments play a significant role in promoting good sales and marketing practices. However, to ensure consumer confidence and a stable market, responsibility must be assigned to specific market conduct regulatory agencies.

¹ In December 2011, the CEMC Working Group conducted a stakeholder stocktaking survey of its members in order to, among other things, establish baseline information, identify common practices and strategies, and develop recommendations and guidelines on the working group's priority concerns.

Guidelines

The following guidelines are intended to assist national policymakers in designing and implementing their own sales and marketing policies and regulations, and in strengthening consumer protection and market conduct frameworks. Policymakers should not simply replicate successful models, however; policies should always consider the size, structure and level of development of the market, the existing legal framework, and the institutional capacity of the regulatory agencies tasked with implementing these policies. It should also take into account best practices in financial consumer protection that are evolving at the international level.²

1. Guidelines for the licensing authority

Clear legal mandate: Consumer protection and market conduct requirements are enshrined either in a general consumer protection law or in specific, dedicated laws, regulations or guidelines. Ensuring that FSPs have fair and responsible selling practices should be an integral part of the financial sector's legal, supervisory and regulatory framework.³ An appropriate licensing framework that requires all FSPs to be licensed is also critical to any sound consumer protection strategy. The licensing authority must have the capacity to:

- issue and require adherence to appropriate standards of practice and market conduct regulations;
- allocate adequate resources to ensure that FSPs effectively implement consumer protection measures as required;
- monitor and assess the performance of FSPs and their employees, including their compliance with market conduct regulations; and
- enforce market conduct regulations consistently and ensure that FSP practices are in the public interest.

While a single licensing authority or regulator may suit some jurisdictions, others may require multiple regulators or licensing authorities to supervise financial institutions that offer different types of financial products and services. Regardless, the licensing authority should have a clear legal mandate to rule whether institutions are “fit and proper” to be licensed as FSPs and the capacity to vet people within these institutions. This is critical to protecting the integrity of the financial system.

Understanding the market: Regulatory issuances aimed at improving the sales and marketing practices of FSPs should consider the dynamics of the market and strike a careful balance between protecting consumers and promoting innovation and competition in product development and sales. This requires regulatory agencies to have a sophisticated understanding of the market and the capacity to respond to the needs of all players.

Stakeholder engagement: The justification for any regulation must be clearly communicated and properly understood by market players. In some jurisdictions, the inputs of regulated bodies are considered when requirements and guidelines are being drafted. Engaging stakeholders in the process helps to ensure ownership of the policies and requirements, and it also makes implementation much easier.

Institutional capacity: Regulatory agencies should have the capacity to adopt tools for monitoring and evaluating the market and be able to identify priority and potential problem areas. They must also have the capacity and commitment to enforce policies consistently, as this demonstrates that they are firmly behind any effort to improve consumer protection and market conduct practices. It also prevents excessive and burdensome requirements, which threaten the credibility of the licensing or regulatory agency. Appropriate capacity building programs for regulatory personnel should be embedded in institutional policies.

² World Bank/OECD – www.worldbank.org www.oecd.org.

³ The G20 High-Level Principles on Financial Consumer Protection (October 2011), Principle 1 on Legal, Regulatory and Supervisory Framework, states that financial consumer protection should be an integral part of the legal, regulatory and supervisory framework.

Interagency cooperation: Jurisdictions with multiple regulators or licensing authorities should have a robust mechanism for interagency cooperation that ensures seamless supervision and a level playing field for all FSPs.

2. Guidelines for financial services providers

In addition to meeting standard licensing requirements, FSPs must examine their sales and marketing practices to assess whether they are serving the public interest. A clear understanding of the market allows FSPs to design and sell products and services that meet consumer needs rather than relying on off-the-shelf products. Respectful and consistent treatment of consumers must include prohibiting unfair, deceptive or aggressive sales and collection practices and ensuring that consumers are clearly aware of dispute resolution mechanisms that are available. Some areas deserving special attention are outlined below.

Training: FSPs must ensure that their personnel and agents receive appropriate training and are able to assess whether a product is suitable for a particular consumer, to clearly explain the significant features of the product they are selling, and to respond to questions not only about the benefits of a product but also the potential risks.

Third parties and agents: Where sales and marketing activities are conducted through third parties or agents, FSPs must be responsible for their actions. Safeguards must be in place to ensure that agents or third parties conduct business with the same assurance of quality as FSP personnel, and their performance must be regularly monitored and assessed. The roles and responsibilities of agents and third parties must be clearly explained to consumers, and consumer feedback should be captured and analyzed to improve product features and how products and services are sold.

Bundling of products and services. FSPs must ensure that as much as possible, this practice must be avoided as this may force consumers to accept a product or service that they do not need.

Sales and marketing materials: All sales and marketing materials must be written in plain, clear terms and in the language in which consumers conduct their everyday business, not just in the official national language. The material should be presented in an easy to read font.

A glossary of sales and marketing terms helps consumers to understand products and services and must be made readily available.

Advertising materials also need to be designed appropriately. Advertisements must not mislead consumers; they must be easily understood yet comprehensive enough to properly inform consumers of the main features and conditions of a product.

For all products and services, FSPs should provide consumers with a short summary statement explaining the applicable key terms and conditions.

About AFI

The Alliance for Financial Inclusion (AFI) is a global network of financial inclusion policymaking bodies, including central banks, in developing countries. AFI provides its members with the tools and resources to share, develop and implement their knowledge of financial inclusion policies. We connect policymakers through online and face-to-face channels, supported by grants and links to strategic partners, so that policymakers can share their insights and implement the most appropriate financial inclusion policies for their countries' individual circumstances.

Learn more: www.afi-global.org

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