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**DIRECTORATE-GENERAL INTERNAL POLICIES OF THE UNION
- DIRECTORATE A -
ECONOMIC AND SCIENTIFIC POLICIES**

Workshop: Consumer protection in Financial Services

21 January 2009

European Parliament, Brussels, Room: **Jozsef Antall 6Q2 15.00-18.30**
(Interpretation DE, EN, FR)

15.00-15.05 Introduction by ECON Chairwoman Pervenche Berès

15.05-17.00 **Session 1: In the current financial climate are there any indications that financial institutions focus too much on the shareholder return and hence decision making on business practices and targets are more detrimental to other stakeholders such as consumers? How far should information and education be the responsibility of financial institutions and how can this improve transparency and consumer protection?**

- Did boards ignore corporate governance issues and focus overly on quick returns, leading to malpractice?
- What measures should financial institutions take to ensure the selling of financial products is subject to control in order to ensure all the conditions and risks are correctly evaluated by the consumer?
- Is the rule of law at EU and national level sufficient in times of crisis? How do supervisors respond to issues of malpractice and misselling?

Guest speakers:

- Mr Sebastien de Brouwer, Head of Retail Financial Services, European Banking Federation
- Mr Gijb Verwilt, Netherlands Authority for the Financial Markets, Netherlands
- Ms Anne Fily, Head of Legal and Economic Department, BEUC (European Consumer's Organisation)
- Ms Dr Rym Ayadi, Senior Research Fellow, Ceps, Belgium and member of Fin-Use (the Commission' s Financial Services end user panel)

17.00-18.30 **Session 2: What measures are available to consumers in the case of malpractice? How do supervisors intervene?**

- Is there enough protection at European level, in the case of cross border issues?
- What do you think of the Commission's Green Paper on Collective Redress? Does it cover all issues?
- The right of consumer to have a voice on public intervention (Northern Rock, Ice Save, Fortis, Dexia)
- What measures need to be taken on the supervisory level to ensure consumers are protected both nationally and cross border?
- Does the credit ombudsman created in some EU countries help consumers in the current crisis

Guest speakers:

- Prof Jules Stuyck, Leuven University, Belgium
- Mr Arne Huneke, Consumer Protection/Legal Department Federal Finance Supervisory Authority(BAFIN), Germany
- Mr Christian Huard, ADEIC, France
- Mr Dirk Staudenmayer, Head of Unit Financial Services and Redress, European Commission, DG Sanco

Workshop Consumer Protection in Financial Services 21 January 2009

First session:

In the current financial climate are there any indications that financial institutions focus too much on the shareholder return and hence decision making on business practices and targets are more detrimental to other stakeholders such as consumers? How far should information and education be the responsibility of financial institutions and how can this improve transparency and consumer protection?

Sébastien de Brouwer (EBF)

The remuneration and compensation policies of financial institutions will have to be revised.

- There is a link between remuneration and performance
- Director's remuneration policy has to be disclosed
- Shareholders have to be involved

There were shortcomings in risk management and corporate governance but not a link between corporate governance and risk management failures and malpractice or mis-selling of bad products to consumers. Only bad incentives at the retail level can have had an influence on misselling.

Consumers generally have a low level of financial literacy, The EU, national governments and banks can work together to improve it. However, financial literacy will never replace consumer protection.

Development of a single EU retail banking market is progressing. A level playing field is good for all participants.

In MiFiD there is an obligation to advise, isn't this useful to introduce elsewhere?

The EBF sees this as an additional service that can be offered to consumers, but not all responsibility has to be removed from the consumer.

Gijs Verwilt (AFM, Netherlands)

EU legislation should:

- Create a level playing field for offering financial products throughout the EU
- Create a 'duty of care' when financial products are offered
- Create a situation where it is clear to the retail investor what the specifications are of the financial products he can choose from
- Leave room for national legislation where product markets are still national

Some problems with existing legislation:

- Internal bonus schemes may give the wrong incentives, and there is in general too little attention for these schemes within financial institutions
- Financial advisors should advise their clients about the whole range of financial products available, not just some of it, and from a consumer perspective
- Structured products can only be subject to non-enforceable self-regulation, and above EUR 50.000 the products are exempt from regulation, additionally, the distributors might not even understand these products themselves

To help consumers, the Netherlands AFM has created the 2-page 'Financial Products Information Leaflet', which lets the consumer compare complex financial products more easily. The obligation to provide such a leaflet with every financial product has been introduced in the Netherlands in 2002.

What is your assessment of the Key Investor Document?

It has to be geared to the perception of the consumer, cannot be a legal document and cannot cover 100% of the financial market

Anne Fily (BEUC)

Consumers have suffered from irresponsible boards of financial companies, seeking short-term profits and underestimating risk

Suggestions: -Disconnect manager remuneration from short-term company profits
-Make remuneration more transparent
-Develop a code of conduct

Consumers lack appropriate information and qualitative advice

Suggestions: -Ensure the provision of timely, short, complete, understandable and comparable information
-Make available affordable independent advice

Financial education is not always helpful, especially not with large, complex and important investments. We have to create a distinct supervisory body to be in charge of consumer protection and merge existing supervisory authorities at the national level, and perhaps create one European Supervision Authority for the whole of the EU

Reward packages: what EU measures should be taken to deal with that? What is the most effective way?

A code of conduct might be a solution.

Rym Ayadi (CEPS)

At the moment, consumer protection is not an objective in prudential financial regulation. Deposit guarantees, bail-outs and other government measures do not offer the retail consumer much protection. The way forward is to provide more disclosure and relevant information, to enhance EU legislation, to stimulate a consumer voice in policy making and possibly a level 3 committee for retail financial services. Financial education is also important but it would be foolish to believe that this is *the* solution.

Is there any progress in the development of a single EU retail banking market?

We need an 'observatoire'/website to compare products, a level 3 committee purely for retail financial services might also be appropriate.

Second session:

What measures are available to consumers in the case of malpractice? How do supervisors intervene?

Jules Stuyk (University of Leuven)

With regard to the Green paper on consumer collective redress, there is no unitary EU model in these matters. While it is desirable that consumers are compensated for damages, there is no wish for a US style class actions system. So what is to be preferred in the EU? The choice is between Opt-in and Opt-out schemes, public actions, private actions and voluntary systems.

Arne Huneke (BaFin, Germany)

In Germany, private protection is provided by several Ombudsmen, Consumer Advice Centres and by private mediation. Public protection is provided by the Government, the Bundesbank and the Federal Financial Supervisory Authority (BaFin). Malpractice is the domain of BaFin, however, not all complaints that are looked at are cases of malpractice and no single consumer interests can be enforced since BaFin is only allowed to look after the public interest.

Christian Huard (ADEIC, France)

"Two standardised, comparable pages that form the heart of the contract" are very important for consumer protection as contracts get longer and longer. More education cannot replace this need.

Independence of information that goes to the consumer is important, advice alone is not enough.

The way information is delivered has to be rethought. It cannot be the responsibility of professionals only to inform consumers.

Short-termism in the corporate reward systems has had grave consequences for consumers.

As for standardising retail financial markets, why can bank account numbers not be transferred from one bank to another? A lot has still to be done, and the coordination of the different models in the EU will have to start.

Dirk Staudenmayer (European Commission, DG SANCO)

Often consumers cannot get back their money in case of malpractice, and have to resort to a collective redress. However, of 27 Member States, only 13 have a collective redress system. In these member states, cases involving financial services make up a large number of the total amount of collective redress cases, namely 39%. The next sector only accounts for 23% percent of cases.

None of the national systems is perfect, but then again a one-size-fits-all system for every kind of complaint is not possible anyway. The Commission is trying to come up with some ideas for the way ahead:

The Commission has 4 different proposals:

1. Status quo: i.e. national systems
2. Cooperation between Member States: Here, nationals of Member State 1, if they are hurt by a company in Member State 2, can make use of the system of collective redress in Member State 2. At present this is not yet the case. It would be a cumbersome system in practice however.

3. A policy mix with extrajudicial settlements with help from the governments for medium-sized claims, government intervention for small claims and the court for large claims

4. European class action litigation, although no American-style class actions

In July or August 2009 the Commission will publish a White paper on the regulatory response to the crisis. In March a brief communication will be sent out setting the priorities on retail financial services.

A few considerations:

- Pre-contractual information: information should be clear and comparable. The Key Investor Document (UCITS IV) is currently being tested.
- Financial education effectiveness is also being tested
- The use of standardised products in retail financial markets is being looked into.

In MiFiD there is an obligation to advise, isn't this useful to introduce elsewhere?

A duty to advise is difficult to implement because it cannot be enforced. It is impossible to check whether banks give advice to customers, unless all conversations are recorded.

Curricula Vitae

Session I - Speakers

Sebastien de Brouwer

Current occupation: European Banking Federation - Head of Retail Financial services, Legal and Social affairs department - Member of the Management Committee. In charge of Legal, Retail, Social affairs, and Financial crimes related matters. Members of various Expert Groups at EU level, Members of the Certification Committee of the European Banking Training Network (EBTN), Past-Secretary of the European Banking Industry Committee (EBIC)

1998 - 2006: Belgian Finance Federation (Febelfin - Trade Association which represents the interests of the Belgian financial sector), Head of European Affairs, Member of the Executive Committee (2005-2006). Advisor Legal Department (1998-2005) Trainer for various banking courses, Training magistrats.

Prior work experiences: The Bank of New-York (Global Custody), Royale Belge (Management and study of the legal aspects of important claims)

Gijs Verwilt

Mr Verwilt is a senior officer at the Strategy, Policy and International affairs department of the Netherlands Authority for the Financial Markets (AFM). His department is responsible for monitoring market developments and determining the impact and actions to be taken (e.g. of the credit crunch) and dealing with all legislative developments (international and national level) regarding financial supervision; e.g. implementation of MiFID, PSD, UCITS. Furthermore, He is a member of the CESR Expert Group Investment Management (Committee of European Securities Regulators). Before joining the AFM he had been working as a tax lawyer.

Anne Fily

Anne Fily is currently Head of the Economic and Legal Department at the European Consumers' Organisation BEUC in Brussels . Ms Fily has vast experience in the field of consumer rights and consumer protection; she started her career in 1985 at the Directorate of the General Directorate for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) in the French Ministry for Economic Affairs, Industry and Employment. In 2003, Ms Fily worked at the European Commission as a national expert in the Directorate General for Health and Consumer Affairs where she stayed four years. Just before joining BEUC, Ms Fily worked in the Bureau for Economic Consumer Protection (DGCCRF). .

Ms Fily has a Master degree in Business Law from the University of Rennes, as well as a Master Degree in "Training and project management engineering" from the University of Paris VI.

Dr Rym Ayadi

Dr. Rym Ayadi is Senior Research Fellow and Head of Research of the Financial Institutions, Prudential Policy and Tax Unit at the Centre of European Policy Studies. Rym has been working on financial services, financial markets and regulation areas in Europe over the past ten years. She is expert member of FIN-Use forum, an independent expert forum set by the European Commission on financial services matters from users' perspective and invited expert in several research projects on her areas of expertise.

Session II - Speakers

Prof Jules Stuyck

Qualifications: Law degree K.U.Leuven 1970; ph d K.U.Leuven 1975, admitted at the Brussels bar 1984.

Present Functions: Professor of European law and consumer law at the Law Faculty of the K.U.Leuven (Belgium); director of the Centre for Advanced legal Studies (responsible for the LLM programme), director of the Study Centre of Consumer law. Professor of European law at the Radboud Universiteit Nijmegen (the Netherlands). Visiting professor of European Competition law at the Central European University, Budapest (since 2000). Partner with Liedekerke.Wolters.Waelbroeck.Kirkpatrick, Brussels, head of the department of European law and Competition law. 2007-2008 Visiting professor in European consumer law at the Université Pantéon-Assas Paris 2

Past functions include: professor at the college of Europe (Bruges)(1989-1994); Visiting Jean Monnet professor at the University of Bonn winter term 1990 and winter term 1995.

Publications: Author of about 350 publications.

Editorial Boards: Editor in Chief of Droit de la Consommation/Consumentenrecht, Larcier, Brussels; member of the editorial board of Journal of Consumer Policy and of Revue européenne de droit de la consommation, Larcier; member of the consulting board of European Review of Contract Law, De Gruyter, Berlin.

Arne Huneke

After law school in Greifswald (Federal-State of Meckelenburg-Vorpommern) and Berlin, he first worked for the "Ombudsmann Private Kranken- und Pflegeversicherung" (Ombudsman for health and long term care insurance) in Berlin, Germany. Since August 2007 he works for BaFin as an abstractor (Referent) in the legal departement for consumer protection.

Christian Huard

Profession: Professeur de Mathématiques en lycée depuis 1971.

Principales fonctions actuelles dans la consommation: Secrétaire Général de l'Adéc - Association de Défense, d'Education et d'Information du Consommateur -, depuis 1988 (Ex-Adéc-Fen créée en 1983 : Association de consommateurs de la Fédération de l'Education Nationale, devenue, en 1999, association de consommateurs adossée à la nouvelle confédération syndicale UNSA avec ouverture à tous les consommateurs). Membre du Conseil National de la Consommation et de son bureau. Rapporteur du groupe de travail du CNC sur "les nanotechnologies et les consommateurs". Membre du Comité Consultatif des Services Financiers et du Comité National SEPA. Membre du Conseil Supérieur d'Orientation et de Coordination de l'Economie Agricole.

Dirk Staudenmayer

Professional experience at the European Commission:

From November 2003 to date: Head of Unit "Financial services and redress", Directorate-General Health and Consumers.

Main areas of work of the Unit: Financial services, inter alia the Directives on Consumer Credit and Distance marketing of financial services, Collective consumer redress, Injunctions Directive, Alternative Dispute Resolution. European Contract Law

From August 1999 to January 2004: Assistant to the Director-General, Directorate-General Health and Consumer Protection.

February 1999 – July 1999: Assistant to the Director, Directorate A Consumer Policy, Directorate General XXIV – Consumer Policy and Consumer Health Protection.

January 1998 – January 1999: Unit “Policy Development” and Assistant to the Director, Directorate General XXIV – Consumer Policy and Consumer Health Protection.

May 1996 - December 1997: Unit “Transactions”, Directorate General XXIV – Consumer Policy, Official responsible for negotiation of the Directive on price indication and the Directive on the sale of consumer goods in EP and Council.

July 1994 - April 1996: Unit “Drafting and implementation of legislation”, Consumer Policy Service.

Education: June 2001: PhD magna cum laude, University of Bonn, Doctorate thesis with regard to EC competition law.

July 1992: Summer course on Private International Law at the Academy of International Law, The Hague/The Netherlands.

October 1990 - May 1991: Postgraduate studies of EC Law at the Centre Européen Universitaire, Nancy/France. (Diplôme d’Etudes Supérieures Européennes and Diplôme d’Etudes Approfondies de Droit Communautaire).

November 1985 - July 1990: Law School of the University of Erlangen – Nürnberg, Germany.

Publications and academic activities: Numerous publications in particular in the areas of European contract, consumer, competition and education law.

Honorary professor of the Law Faculty of the University of Münster/Germany.

Associate editor of three law reviews.

Member of the Kuratorium of the Max-Planck-Institut für ausländisches und internationales Privatrecht, Hamburg/Germany.

Slides

Session I - In the current financial climate are there any indications that financial institutions focus too much on the shareholder return and hence decision making on business practices and targets are more detrimental to other stakeholders such as consumers? How far should information and education be the responsibility of financial institutions and how can this improve transparency and consumer protection?

**Presentation by
Sébastien de Brouwer
Head of Retail Financial Services, European Banking Federation**



Workshop : Consumer protection in Financial services

21 January 2009

Sébastien de Brouwer

Head of departement

European Banking Federation (EBF)



European Banking Federation (EBF)

- 31 national member Associations
(EU + EFTA countries)
- Over 5 000 banks, large and small, wholesale and retail financial institutions
- Ultimate aim: To achieve an integrated European financial services market

www.ebf-fbe.eu

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1. Current context

- Financial crisis
 - Too early to draw conclusions but radically changed environment
 - Global problems demand global responses
 - Better not more regulation
 - Regulation should not stifle innovation
 - Improved execution
 - Culture changes
 - Lessons for banks
 - Lessons for policy-makers and supervisors
- What to avoid under the present crisis
 - prioritisation is necessary
 - Over-reaction must be avoided
 - Further legislation is not always the solution
- The rationale for greater integration will remain (the momentum toward integration may even well increase) but the short priority is to restore **confidence** to financial markets (responsibility, accountability, transparency)

2. Corporate Governance

- Remuneration and compensation policy
 - Director remuneration : horizontal issue not only related to financial institutions
 - Link between remuneration and performance
 - Disclosure of the policy on director's remuneration
 - Involvement of shareholders
 - Specific issues related to financial services (traders and other financial functions)
 - Measures at national level as regulatory frameworks differ across Member States
 - Some principles :
 - compensation should be based on performance and should be aligned with shareholders' interests and long term, firm-wide profitability
 - Compensation incentives should not induce risk-taking in excess of the firm's risk appetite
 - Commissions and other incentive compensation at the retail levels should be managed to avoid incentives to "mis-sell" products (such as subprime mortgages) to consumers
- Risk management

3. Retail Investment Products EU regulatory Framework


- UCITS directive (simplified prospectus, KII)
- MiFiD
 - MiFiD has been designated as a horizontal and comprehensive investor protection standard for investment products to retail investors (information requirements, suitability and appropriateness tests, best execution requirements and conflict of interest rules)
 - LPF should exist between potentially competing retail investment products. Product disclosure requirements should be coherent across sectors and on a comparable level so as to provide the client in all cases with sufficient information for his decision
 - EBF believes that MiFiD standards are sufficient as regards to information to be provided to retail investors (information to be provided shall be “fair, clear and not misleading” ; “appropriate information shall be provided in a comprehensible format” about proposed investment strategies and types of financial products, including the risks associated with certain investments and costs and charges).

4. Financial literacy

- **Importance of financial education**
 - Large amount of international surveys have demonstrated consumer’s generally low level of understanding of financial matters and of basic economics
 - Education in financial matters is becoming increasingly important as innovation and globalisation are increasing the range and complexity of financial services on offer
 - Only people with good knowledge are able to make good decisions and to decide what kind of products they really need.
- Financial education is an essential component **to empower consumers** and to ensure that the single market can bring direct benefits to them
- EU and national authorities, along with banks (and banking federations) and consumer organisations have an important role to play
- Banks and national banking federations are already very active in financial education
- **Financial literacy complement consumer protection**

Thank you for your attention

**Presentation by
Gijs Verwilt
Authority for the Financial Markets, Netherlands**




Is the customer king?

Brussels, 21 January 2009

Gijs Verwilt
Strategy, Policy and International Affairs department

Netherlands Authority for the Financial Markets

20 januari 2009



OUR THOUGHTS ABOUT THE FUTURE

1. **Attention given to cross-sectoral and cross-distribution consistent regulation at EU level**
2. **Duty of care at distribution level**
3. **Transparency at product level**
 - Geared to the perception of the retail investor
4. **Room allowed to create consistent regulation at national level for product markets that are still pre-dominantly national**

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- Enable retail customers to understand and compare products
- Duty of care by the financial service provider
- Transparency of costs and inducements
- Level playing field between products



Some issues we see & addressing the issues...

Examples seen in the Dutch market

1. Uneven regulation influences market negatively

- **Insurance investment products sold inadequately**
- Mortgages sold inadequately

2. Inadequate regulation increases risk of investors making bad decisions...

- **Misinformed customers investing in structured products**
- Misinformed customers investing in real estate funds

3. ...or getting inadequate advice

- Inadequate investment advice about insurance investment products including insurance investment mortgages

	Collective investment product	Insurance investment product
Transparency of costs	<ul style="list-style-type: none"> • TER / PTR • Simplified prospectus 	<ul style="list-style-type: none"> • financial information leaflet
Transparency of inducements	<ul style="list-style-type: none"> • MiFID regulations 	<ul style="list-style-type: none"> • Since 2009: MiFID inducements applicable to non-MiFID intermediary
Duty of care	<ul style="list-style-type: none"> • MiFID regulations 	<ul style="list-style-type: none"> • Since 2006: duty of care comparable to MiFID
Tax	<ul style="list-style-type: none"> • Deferred income tax and avoided wealth tax 	<ul style="list-style-type: none"> • Deferred income tax and avoided wealth tax

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Currently	Missing
<ul style="list-style-type: none"> • Inducement legislation (external) 	<ul style="list-style-type: none"> • Attention for internal bonus schemes
<ul style="list-style-type: none"> • Duty of care 	<ul style="list-style-type: none"> • Adequate advice across product groups

6 Is the customer king? 20 januari 2009

Self regulation: principles

- Structured products are typically securities
- prospectus directive

- Name reflects content
- Qualitative explanation
- Description of underlying value
- Description of structure and features
- Example of working of product
- Description of expected value and a good and bad scenario
- Purpose and target group of product

However: Self regulation is only partly succesfull

- No legislation > no sanction
- EU passport
- 'Execution only' distribution
- €50,000 exemption

Financial Information Leaflet

[Name of product]
[Name of financial institution]

- The product**
- The risks**
- The costs**
- The yields**
- Premature termination**

Consult the Financial Information Leaflet before you decide to take out [a/an] [the product name] [type of product]. You should also compare this Financial Information Leaflet with the leaflet available for other [types of product]. Be sure to also read the offer and the general terms and conditions.

Calculations in this leaflet are based on an annual deposit of € 1,200 and investments consisting of a combination of shares and bonds, each of which account for 50% of the investment. For further information, go to: [www.definancieleb\[pluiter.nl\]](http://www.definancieleb[pluiter.nl])

If you have any questions, please contact:
(name, address and telephone number of financial institution)
or contact an advisor.

Please note
Calculations are based on an annual deposit of € 1,200 and investments in shares and bonds, each of which account for 50% of the investment.

This Financial Information Leaflet was compiled on [date] according to the conditions set out by the Netherlands Authority for the Financial Markets (AFM) (www.afm.nl), which is the supervisory authority for the savings, loans, investment and insurance markets.

What is [Name of product]?



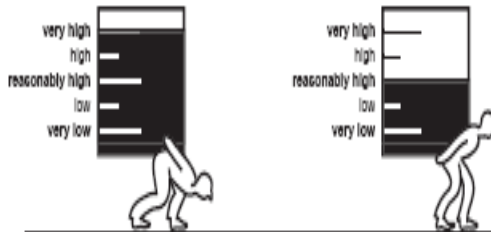
When you	You must	You can
invest	pay in a fixed monthly amount inquire about the amount and what you are investing in	accumulate an amount of money
and take out insurance	pay a monthly premium inquire about the amount	bequeath a fixed amount to next of kin upon your death

What are the risks?



Risk that you will lose your deposit

If the product is terminated prematurely (1 year) After the full term (10 years)



What can happen in the worst-case scenario?

If the product is terminated prematurely, you could lose your entire deposit

at the end of the full term (10 years), you could lose your entire deposit

What are the costs?



The resulting costs based on a forecast of a 4% increase in the value of the investment

	Value	Costs involved	What you retain
After 1 year		€ 60 insurance premium € 100 other costs € 40 if terminated prematurely	
	€ 1,280	- € 200	= € 1,080
After 6 years		€ 330 insurance premium € 600 other costs € 170 if terminated prematurely	
	€ 8,800	- € 1,100	= € 6,600
After 10 years		€ 600 insurance premium € 1,680 other costs € 0 if terminated prematurely	
	€ 14,280	- € 2,280	= € 12,000

What could the [Name of product] yield?



The resulting yield based on historical data

The resulting yield based on a forecast of a 4% increase in the value of the investment

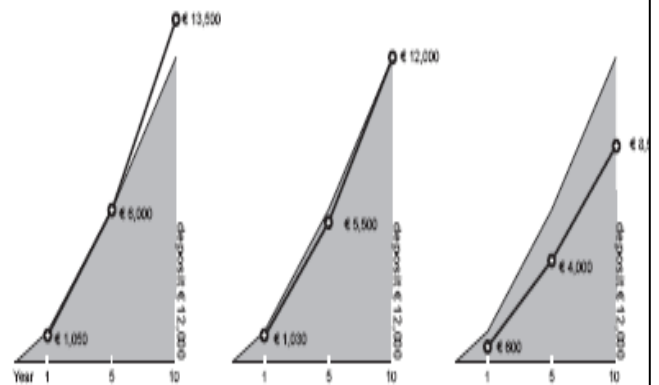


The resulting yield based on a pessimistic forecast

The yield is greater than the deposit

The yield is about the same as the deposit

The yield is lower than the deposit



What happens in the event of premature termination?



Premature termination	Consequences
upon your death	your next of kin receives a fixed amount inquire about the conditions
if terminated due to other circumstances, such as divorce, loss of job or occupational disability	penalty costs apply inquire about the amounts

Presentation by

Anne Fily

Head of Legal and Economic Department, BEUC (European Consumer's Organisation)




European Parliament

21 January 2008


*Workshop on
Consumer Protection
in Financial services*

Anne Fily



Impact of the current crisis on consumers

- ✓ The financial crisis which is transforming now into economic crisis affects more and more consumers who are concerned with their bank deposits, consumer and mortgage credits, pension schemes, investments, etc.
- ✓ Lack of regulation and supervision over financial service providers and products
 - shakes the basis of the overall financial system
 - undermine the protection of savings and investments
 - distresses the credit market and
 - deteriorates consumers' confidence.





- ✓ It is therefore paramount for consumers
 - to feel secure regarding their bank deposits and investments,
 - to access credit, on fair terms,
 - to get reliable, clear and timely information
 - to have the possibility to be recovered from damages.
- ✓ On the other side, financial services providers
 - must be better regulated and supervised and
 - must assume the responsibility for their decisions



Corporate governance

- ☞ The way in which CEOs of certain companies are remunerated leads them to:
 - * Seek short-term profits
 - * Underestimate the risk
- ☞ As a result:
 - * Disregard to the long-term effects of their decisions
 - * Financial and economic instability
 - * Consumers suffer as the least protected and most vulnerable group



Corporate governance



Suggestions

- ☞ To disconnect company's short-term performance from manager's remuneration
- ☞ Transparency of managers' remuneration
- ☞ To develop a code of conduct, using best practices, for financial institutions to behave in a responsible way



Precontractual Information on Financial products and services



- ☞ Consumer has access to the information which is often very long and not consumer-friendly
- ☞ Information is not very helpful to compare products and to make the right choice



Precontractual Information on Financial products and services



Suggestions

- ☞ Provide timely, short, complete, understandable and comparable information
- ☞ Create a single risk indicator for each financial product
- ☞ Develop the concept of simplifying and standardising financial services
- ☞ Stricter rules on marketing and advertising practices (to avoid wrong and misleading information)
- ☞ Important: provision of information does not exempt the service provider from his other responsibilities (ex. responsible lending)



Financial advice



- ☞ Everywhere in the EU, there is a lack of the independent advice
- ☞ "Advice" is in general only provided by financial services providers
- ☞ It is often not targeted to consumer's needs and expectations



Financial advice



Suggestions

- ☞ Important: make difference between financial information and financial advice
- ☞ Affordable independent advice is necessary to prevent wrong decisions:
 - * Ensure the reliability of information
 - * Make it easier for consumers to claim compensation (the burden of proof to lie with the financial service provider)
 - * Set up a MiFID profile for each investor (and periodically reassess it to ensure it fits consumer's needs)
- **Funding for independent advisors (partly by public authorities and partly by consumers.**
- **Advice could be provided by consumer organisations or other independent body**



Financial education



Consumer's perspective

- ☞ Financial products are increasingly complicated (even for financial experts)
- ☞ Consumers are not always rational (behavioural economics)
- ☞ Financial education may be useful for small purchases (bank account, credit card, etc.) but not for heavy investments (mortgage, securities, life insurance, etc.)
- ☞ Studies show ineffectiveness of financial education (consumers' decisions become even worse)
- ☞ Pitfall: 'atout' for service provider to avoid his responsibility



Financial regulation and supervision



- ⊕ Legislation is incomplete and does not always work in practice (ex. deposit guarantee schemes)
- ⊕ Incapacity of national supervisory authorities to correctly detect the risks and to impose the necessary measures to avoid the crisis
- ⊕ No sufficient cooperation between national supervisors
- ⊕ Conflict of interests between financial sector stability and consumer protection
- ⊕ Financial advertising is not enough controlled
- ⊕ As a result:
 - * uneven situation in different Member States
 - * consumers are put at risk



Financial regulation and supervision



Suggestions

- ⊕ Need for more powerful and independent supervisors everywhere in the EU
- ⊕ Create a distinct supervisory body to be in charge of consumer protection (participate in advertising control, financial information, out-of-court dispute resolution, early warning system, etc.)
- ⊕ Merge existing supervisory authorities (bank/non bank credit, insurance, securities, pension funds, etc.)
- ⊕ Create a European Supervision Authority to take coordinated actions at the EU level (the global supervisor to control the global financial system)



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Are Financial Services' Consumers Protected?: Lessons from the Crisis

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Brussels, January 21, 2009

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Key Ratios of "Troubled" Banks

Banks (December 2007)	Country	Pre-tax profits (millions €)	Tier 1 (%)	Loans / Deposits (%)	Equity / Assets (%)	Asset / GDP (%)	ROE (%)	Cost-to-income (%)
Fortis Bank	Belgium	1,435	9.5	118.8	4.4	229.1	4.2	87.3
Dexia Bank	Belgium	1,090	8.1	106.2	2.0	79.0	20.2	63.2
KBC Bank	Belgium	3,284	7.8	99.3	4.4	92.4	24.0	56.9
Bank of Ireland	Ireland	1,933	8.1	158.1	3.4	103.6	28.6	55.8
Allied Irish Banks	Ireland	2,508	7.5	157.9	6.2	93.3	22.6	52.4
Anglo Irish Bank	Ireland	2,143	8.6	125.7	4.2	50.7	52.7	30.8
Kaupthing Bank	Iceland	889	9.6	239.2	6.7	402.3	22.7	53.1
National Bank of Iceland	Iceland	500	10.1	142.3	6.0	230.0	24.7	61.0
Glitnir Bank	Iceland	372	8.1	274.2	5.7	221.8	20.2	63.1

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What are the Anomalies?

- Irresponsible lending
- Herd behavior in the financial markets – race to short term profits
- Investments in high return (although in) toxic products
- Wrong incentives and exorbitant compensations and bonuses
- Assuring role of credit rating agencies and auditors
- Amplifying role of un-regulated players (hedge funds..)
- Moral hazard (TBTF)
- Ineffective regulation (Basel)
-

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Has Prudential Regulation been Effective to Prevent the Crisis and to Protect Consumers?

- **Sole objective is to strengthen the soundness and the stability of the banking system**
- Capital ratio (Basel I) only considers credit risk and market risk
- Calculation of RWA based on external rating agencies (considerable flaws)
- Definition of Tier 1 and Tier 2 not harmonized
- Minimum of 8% is not sufficient to account for all risk in OBS including other risks (counterparty credit risk, liquidity risk, systemic risk...)
- Did not impede banks to take irresponsible risks
- Basel II - more **perverse incentives** and **regulatory arbitrage** under Pillar 1 => Danger to rely on risk sensitive capital requirements measures only...
- **Consumer protection is not an objective in financial regulation**

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Deposit Guarantee Schemes – Did they Cure the Harm?

Before the financial crisis				After the financial crisis October 2008
Country	Legal framework	Coverage	Funding	
Belgium	Established in 1975, EU Directive in 1995 Separate legal organization	Coverage per depositor per institution , 20.000 € No co-insurance No coverage for deposits in non EU currencies	Ex-ante, no public contributions, additional contributions can be required in the amount of up 200% of the regular annual contributions. No risk based contributions	The CBFA announced to increase the coverage limit to 100.000 € and to extend the protection, if needed, to other financial firms such as insurance companies and cooperative banks for products similar to bank deposits.
Iceland	Established in 1985 and revised in 1996, EU Directive in 1999 Official permanent fund	Coverage for foreign currencies also granted Coverage per depositor of about 22.000 € 86.8% of deposit value coverage No co-insurance	No-risk adjusted premiums 0.15% annual premiums Private funding (banks) and no public support	The government has promised to compensate Icelandic deposit holders the full amount , and it does not discriminate between Icelandic and European deposit holders
Ireland	Established in 1989 Updated in 2005 after the introduction of the Directive 94/19/EC Public	Coverage per depositor, 20.000 € 10% co-insurance, Payout limit up to 90% of the insured deposits, subject to a max payment of 20.000 €	Ex-ante , no public contributions, No risk-based contribution, Extraordinary contributions if needed (if members contributions less than 0.2% of their relevant “ deposits”), dependent intervention decisions	The Parliament passed legislation guaranteeing 100% of the deposits and borrowings of six major Irish banks from €20,000 to €100,000 per depositor per institution.

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Deposit Guarantee Schemes – Did they Cure the Harm?

- No signs of restoring of market confidence
- Government interventions (DGS (public funding) and bail-outs... offer « some » protection to depositors at the price of increasing moral hazard, but almost “no” protection to retail investors

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Lessons From the Crisis for Consumer Protection – Disclosure/Relevant Information

- Consumers must be able to compare products/services, prices and practices between MS
- An observatory of retail financial products/services, prices and practices must be put in place to help consumers for their financial decisions
- A list of mal practices and mis-selling has to be reported in official websites (ECB, National Central Banks....)
- Financial institutions must inform their customers about the products, the costs incurred, the risks inherent to their investments, the level of their protection (case of investment products sold as guaranteed products (from LB))

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Lessons From the Crisis for Consumer Protection – Financial Education

- It would be foolish to believe that financial education is the solution to personal financial woes
- Financial education should not be seen as a tool to heap all the responsibility onto the consumer to make more informed decisions about his/her financial future
- It should be the responsibility of financial institutions to inform/educate their clients about the risks incurred

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Lessons From the Crisis for Consumer Protection – Role of Authorities and Consumer Voice

- Ensure effective implementation of EU directives in the retail financial services field (consumer credit, future actions on mortgage credit (responsible mortgage credit), bank mobility in relation to current accounts, UCITS...)
- Improve effectiveness of the regulatory process: A Level 3 committee for retail financial services?
- Enhance consumer voice in financial services policy
- A European network of specialised national experienced user groups to defend financial users interests

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Session II - What measures are available to consumers in the case of malpractice? How do supervisors intervene?

