

"Consumer in Financial Crisis: Lessons Learned and Ways Forward"

Can over-protection of consumers
be a problem?

AUTHOR: **Darko Bohnec, Bank of Slovenia**

Consumer protection in field of banking services

- According to the Banking Act banks are obliged to set-up a scheme of out-of-court settlement of disputes between service providers and customers
- Settlement Council for out-of-court settlement of disputes established under the auspices of the Banking Association
- 34 cases of disputes dealt with in 2009
- Agreement between the customer and bank reached in 2 cases only

Bank of Slovenia – The regulator dealing with consumers' complaints

- **Bank of Slovenia (National Central Bank) responsible for supervision of banks, saving banks and payment institutions (i.e. service providers)**
- **However, in 2009 it has received 51 complaints (48 in 2008) regarding banks' conduct of business (mostly from consumers) – more than the Settlement Council**
- **Trust into regulator or not enough informed bank customers?**
- **Having no legal basis for intermediation between banks and customers, only giving non-binding opinions, directing complainant to the Settlement Council**

The case of payment services

- **Payment services one of the most commonly used financial services**
- **Payment Services Directive - PSD (2007/64/EC)**
 - i. Guarantees consumer's rights which cannot be derogated from by contract
 - ii. Obligation on service providers as regards provision of information (free of charge)
 - iii. Consumers protected against unfair and misleading practices
 - iv. Establishment of out-of-court resolution of conflicts between service providers and consumers

A scheme over-protecting consumers?

- PSD providing right to refund in case of executed unauthorised transactions and transaction exceeding the amount which could reasonably have been expected
- *SDD "Core" scheme* went further – "no questions asked" refund
- Limited interest in being a creditor or creditor bank in this scheme – over-exposure to credit risk
- This led to a new ("Fixed amounts") scheme, where no refunds are possible (exc. for unauthorised transactions)

A scheme over-protecting consumers? (cont.)

- **Is this a clear evidence of failure due to over-protection of consumers?**
- **Clear reluctance on the other side (goods/service supplier, i.e. creditors, and their banks)**
- **Lesson learned: In the design of such a solution all stakeholders' interests should be taken into account**

Importance of transparency

- **Clear information (transparent and easy to understand)**
 - i. Should lead to well-informed choices
 - ii. Should be a basis for risk-taking decisions (of consumers as well)
 - iii. Should ensure the right balance between consumer protection and liability of service providers

Challenges

Supra-national regulatory co-ordinator/authority?

- EC Directive = Harmonisation
- Harmonisation allows for decentralisation

Issues for discussion

- What more than clear information is needed to protect consumers?
- May over-protection of consumers lead to reduced supply?
- Can decentralised harmonisation replace supra-national bodies?