# CONSUMER PROTECTION IN FINANCIAL SERVICES

Each year the global economy adds an estimated 150 million new consumers in financial services. Most are in developing countries, where consumer protection and financial literacy are still in their infancy. Particularly in the countries that have moved from central planning to market economies like Vietnam, protecting the interests of consumers has become a prerequisite for sound and competitive financial markets.

Weak consumer protection and financial literacy affect both middle and low-income countries like Vietnam. Emerging countries worldwide have seen rapid development of their financial sectors over the last ten years and rapid growth of income has provided consumers with more resources to invest. The opening up of markets for trans-national corporations (TNCs) to invest and do business freely; increased competition among financial institutions such as banks, insurance companies, or mutual funds; combined with improvements in their technology and infrastructure, have resulted in highly complex financial products sold to the public. However the public in many emerging markets lacks a history of using sophisticated financial products. For many first-time financial consumers, no member of the extended family has over the previous 60 years entered into a long-term financial contract such as a home mortgage. The use of ATM cards, or use of credit cards in daily transactions, is still quite new to a majority of the population, especially in suburban areas, the countryside or even small townships. The growth of financial literacy, thus, significantly lags the growth of available investment resources (or credit options), widening the gulf between the complexity of financial products and consumers' ability to understand what they are buying. Especially in low-income countries, with many first-time financial consumers, technology is also changing the types of protection needed by financial consumers.

Recent developments in financial markets highlight the importance of consumer protection and financial literacy for the long-term health of the financial sector. The current sweeping financial crisis has its origin from the US – the biggest economic powerhouse in the world – in relation to a not-too-alien issue such as house mortgages. For a few years lately, one has seen the frequent appearance of critics of the fact that, in the US mortgage markets, complex financial products, (such as hybrid adjustable-rate mortgages) were sold to borrowers, including those with weak credit histories, who had difficulty in understanding the risks and obligations that they assumed. This, amongst other reasons, has undoubtedly led to the collapse of the whole market. In an effort to reform, the Obama administration has been pushing for the adoption of a Consumer Financial Protection Agency Act (CFPA Act), which is expected to protect US consumers in all types of financial dealings such as real estate, credit card, debit card, student loan, consumer loan, credit accounting and debt collect, etc. The primary objective of having such an agency in place is to protect US consumers and inform/educate them about increasingly complex financial products, which are high above the capability of non-professionals to understand. This agency is expected to take over the relevant tasks and authority from seven other federal agencies, and would be an independent federal institution, just like the Federal Trade Commission (FTC). This bill is getting huge support from US consumers, but is facing mounting oppositions by US bankers. Whereas in Canada, the neighboring country, a similar institution – the Financial Consumer Agency of Canada (FCAC) – has been up and running since the year 2001.

According to a World Bank report on Good Practices for Consumer Protection and Financial Literacy (in Europe and Central Asia), a sound financial sector should provide consumers with:

- **Transparency** by providing full, plain, adequate and comparable information about the prices, terms and conditions (and inherent risks) of financial products and services;

- **Choice** by ensuing fair, non-coercive and reasonable practices in the selling of financial products and services and collection of payments;

- **Redress** by providing inexpensive and speedy mechanisms to address complaints and resolve disputes; and

- **Privacy** by ensuing control over access to personal financial information.

In addition, the report also recommends that consumers should have access to programs of financial education that enable them to develop the financial capability required to understand financial products and services and exercise their rights (and responsibilities) as financial consumers.

The legal framework for consumer protection in financial services in Vietnam is extremely lacking. While the Ordinance on the Protection of Consumers' Interests 1999 only sketches out the most basic principles of consumer protection, its subordinate implementation guidelines such as the Decree 69/2001/ND-CP, subsequently replaced by the Decree 55/2008/ND-CP, still leave this area blank. No other specific laws and regulations such as the Law on Credit Institutions 1997 (amended in 2004), Law on the State Bank of Vietnam 1997 (amended in 2003), the Securities Law 2006, etc mention this issue either. Some of the closest provisions in these laws are only related to the rights of depositors, and borrowers, etc. It is thus recommended that the Law on Consumer Protection of Vietnam, which is still being drafted at the moment, as well as its implementation decrees in the future, would be able to fill this void and provide appropriate solutions. Until now, disputes related to consumers in financial services in Vietnam are still simple and primarily related to issues such as ATM cards, bank fees and insurance premiums, interest rates, etc, whose complexity and severity is not yet high. However, one cannot say that in the future, there would not be more complex problems in Vietnam in this area, since our financial sector is developing very rapidly. Therefore, it is necessary that we have more research studies in this area, whereas the legal framework need to be completed soon, to be in pace with the future. Besides, financial institutions should develop their own codes of conduct, a form of self-regulation, to supplement State management in this area.

Finally, Consumers International (CI), in their submission to NGO consultation by Commission of experts of President of UN General Assembly on Reforms of International Monetary and Financial system, in February 2009, expresses their concerns that an early casualty of the current financial crisis has been competition rules being largely abandoned under the pressures of the moment. Bank mergers or government takeovers have gone through in a matter of days in the US and EU. The current creation of big banking groups via mergers would normally have to be examined by the competition authorities. In the current crisis this is not happening and there is a danger of "new" banking groups having a potential to dominate the market and so make changes that would not be in the best interest of the consumers. Under these circumstances, as the banking sector has become more monopolized, CI recommends that the degree of regulation needs to be stepped up under the proportionality principle, and that consumer protection in financial services is tightened.