

OVERSIGHT OF THE REGULATORY FRAMEWORK FOR ESTABLISHING CONSUMER RIGHTS IN PAYMENT SERVICES

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Abstract

This article aims to examine the role of oversight of the consumer protection framework through the prism of payment services, emphasizing the importance of regulations that ensure a safe and transparent environment for users, the knowledge of financial services consumer rights and the proper realization of institutional roles. From the right to clear and transparent information to security mechanisms and the protection of personal data, this analysis will explore the contribution of institutional mandates overseeing the legislative and regulatory framework to creating a trusted payment experience.

This research is relevant not only for consumers, who need protection and assurance in their use of financial and payment services, but also for financial service providers, who need to comply with legal requirements and maintain ethical standards in their dealings with customers. Through this research, we aim to highlight not only the challenges but also the opportunities that arise in the context of evolving payment services and consumer protection, thus contributing to a constructive dialog in the financial field.

Key words: *consumer protection, consumer rights, regulatory framework, supervision, payments services, fraud, payment service user.*

JEL Classifications: *A12, B31, D11, D12, D18, G53*

Introduction

In an increasingly digital context of the development and promotion of financial services, which have become increasingly prevalent and essential in modern society, and which also provide tools to better support and increase financial inclusion, the need for effective protection of financial consumers is becoming increasingly important. Innovations in payment services, advanced by new developments in technology, have enormous potential to reach people's payment needs, which serve as a starting point for the growth of other financial services such as credit, deposits, insurance, with payment services as the gateway to financial inclusion. For this to happen, effective protection of consumers of financial services is more necessary than ever. Consumer protection and consumer rights in this area are becoming increasingly important as users face various risks and vulnerabilities.

Payment services play a key role in facilitating financial transactions and supporting modern economies. These services not only simplify payment processes, but also transform the way consumers interact with products and services, giving them unprecedented flexibility. However, along with these benefits, payment service users-consumers of financial services also face significant protection challenges.

Financial consumer protection policies have a key role to play, alongside financial inclusion and financial education, in promoting fairer and more sustainable growth while also contributing to the stability of the financial system. It is crucial for people to have access to quality financial products and services, to be integrated into the financial system, to be supported to make well-informed

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decisions and to benefit from safeguards and protection tools and measures that are appropriate to the needs of the payment service user, that inform, safely and securely protect them in their interactions with payment service providers and that effectively and fairly protect them against harm or provide redress mechanisms in such cases.

These policies, to address information asymmetries and ensure fair treatment of the payment service user, need to be integrated into the institutional regulatory and supervisory mandates enshrined in law. Oversight of consumer protection policies is essential in terms of preventing abuses and unfair practices, ensuring fairness, improving transparency, improving the quality of products and services, promoting economic stability, ensuring compliance with the legal framework for consumer protection of financial services, adapting to technological trends in financial services, etc

Abuses and unfair or misleading practices by product and service providers are prevented by closely monitoring consumer protection policies, thus protecting consumers against fraud, manipulation or other forms of exploitation and ensuring that service providers comply with ethical and legal standards.

The role of policy oversight contributes to maintaining a fair business environment in which consumers' rights and interests are respected, which is essential for maintaining public confidence in the market and for the efficient functioning of the economy.

Consumer protection contributes to increased transparency in the financial market. Clear regulations and strict supervision oblige financial institutions to provide full and accurate information about the products and services on offer, helping consumers to make informed decisions.

Constant monitoring of consumer protection policies incentivizes financial service providers, including payment providers, to improve the quality of their products and services, as they are aware that non-compliance with the rules may lead to sanctions, penalties or other prescriptions.

Well-implemented and monitored consumer protection policies contribute to economic stability, as consumer confidence is enhanced when consumers know that protection mechanisms are in place and that they can complain without any holds back, making them more likely to use financial services and participate more actively in the economy, which can lead to economic growth and a healthier business environment.

Oversight also becomes crucial to ensure compliance with consumer protection laws and regulations by all market participants, providers of financial services, including payment services. Without proper supervision, there is a risk that these regulations will be ignored, which would directly affect consumers.

The oversight of consumer protection policies allows for rapid adaptation to new challenges, such as digitalization or the emergence of new technologies, thus ensuring that consumer protection remains relevant and effective in a market that is constantly evolving.

Financial services consumer protection supervision is not only a legal necessity, but also a vital tool to ensure a fair, transparent and sustainable financial system. Without such supervision, consumers could be vulnerable to abuse and the stability of financial markets could be threatened and put at risk.

Enforcing payment of consumer rights

Oversight of the regulatory framework for establishing consumer rights for payment services is essential to protect consumer interests and to ensure that consumers benefit from safe, efficient and transparent payment services. This involves tracking and monitoring the activities of financial service

providers to ensure that they comply with the rules and standards set for the benefit of consumers. The main consumer rights in relation to payment services that are subject to this supervision are:

- The right to clear and transparent information on the use of payment services (costs,) is an essential right to protect consumers and ensure a fair relationship between service providers and users. This right implies an obligation for payment service providers to provide easily accessible, clear and accurate information on all relevant aspects of their services, such as general prior information, pre-contractual information, conditions for the provision of payment services, associated costs (details of fees, charges and other costs related to the use of the service), terms and conditions (information about users' rights and obligations, including cancellation or return of funds procedures), security (data and personal information protection policies and security measures in place), frequency and method of payment (information about how and when payments are made).
- The right to payment security and protection of personal data focuses on how users' personal information is collected, stored, used and shared, and relates to the protection of users during financial transactions. This right is fundamental to ensuring a secure and trusted experience when using financial services, by adopting technical security measures and using advanced encryption technologies to protect information transmitted during payments, implementing strong authentication methods (SCA) such as two-factor authentication (2FA), to prevent unauthorized access to user accounts, fraud detection, through automated transaction monitoring systems to identify suspicious activity and prevent fraud, and fraud liability, which consists of compensating payment service users-consumers in case payments are made without their consent due to security breaches.
- The right to reclaim the financial service user-consumer's funds in the event of an unauthorized or erroneous payment transaction ensures that users can recover funds in situations where payments are made without their consent or due to errors and refers to the user's ability to claim the return of funds in the event of unauthorized (e.g. fraud) or erroneous (e.g. wrong amount or wrong account) transactions.

The following describes some examples of countries in the European Union that demonstrate effective consumer protection practices in financial services:

The UK's Financial Conduct Authority (FCA) is recognized for its strict consumer protection regulations in the financial sector. For example, it requires payment service providers to offer appropriate advice before selling their financial products, ensuring that consumers fully understand the risks involved and the complexities of how these products work. Similarly, the UK is the country that protects consumers through a Financial Services Compensation Scheme (FSCS) in the event of a financial services provider becoming insolvent. This mechanism can compensate consumers of financial services, thus providing an extra level of security for their financial means.

France, through the Authority for Prudential Supervision and Resolution (ACPR) supervises financial institutions and ensures compliance with consumer protection regulations for financial services, including payment services, by obliging providers to be transparent about all costs and associated fees, thus protecting consumers from hidden costs. Similarly, financial education is promoted by the French Government through national campaigns, which support consumers in better understanding financial products in order to make informed and empowered decisions.

In Germany, the Federal Authority for Financial Supervision, BaFin⁴⁰, ensures robust consumer protection in the financial sector by imposing strict standards for the provision of clear and accessible

⁴⁰ Federal Financial Supervisory Authority

information about financial products so that consumers can compare and evaluate the available options. Dispute resolution mechanisms in Germany include an effective Financial Ombudsman system, which offers consumers a fast and free way to resolve disputes with banks or other financial institutions through mediation and possibly compensation.

The Swedish Financial Services Authority, Sweden's Finansinspektionen⁴¹, monitors regulatory compliance and consumer protection, requiring banks to provide clear information and avoid aggressive marketing practices when promoting financial products.

Sweden is also recognized for its rapid adoption of electronic payments, and legislation protects consumers from online fraud, with financial institutions obliged to use advanced authentication methods to protect consumers from unauthorized access to their bank accounts.

The Netherlands Authority for Financial Markets (AFM) in the Netherlands provides strict consumer protection in the area of financial services, with a particular focus on monitoring the advertising of financial products to prevent misleading claims and to ensure that the information provided is accurate and does not mislead the consumer of financial services.

Similarly, the Netherlands has issued strict regulations obliging financial institutions to be transparent about all fees and costs involved in financial products, with the consumer being given a detailed explanation of all costs before entering into a contract for financial services.

The Italian Financial Supervisory Authority (CONSOB) in Italy protects consumers of financial services through strict regulation and continuous monitoring, ensuring the consumer has all the necessary information needed to make informed decisions, thus preventing fraud and abuse.

In Italy, protection against overproduction of risky financial products is also in place, whereby banks and financial institutions are obliged to assess the risk profile of customers before recommending complex financial products. For example, if a client has a low risk profile, the bank cannot recommend high-risk investments without providing adequate justification and clear risk disclosure. These examples show how different countries are putting in place effective measures to protect consumers of financial services, ensuring that they are informed, protected from abuse and fraud, and have access to dispute resolution and compensation mechanisms in case of problems.

In terms of supervision, there are regulatory and supervisory authorities at national and European level dealing with the regulation and supervision of payment services. In Europe, the main regulator is the European Banking Authority (EBA), which has the role of developing European rules and standards for payment services, as well as overseeing the activity of credit and payment institutions. In addition, there are also national supervisory authorities, which are responsible for ensuring that financial institutions comply with the regulations and standards set by the European Banking Authority and for protecting consumer interests.

The regulation and supervision of payment services and consumer rights are topics of interest to regulators and researchers in the financial and legal fields. Among the main studies and research several of relevance have analyzed the regulatory and supervisory framework for payment services in several countries and identified best practices in consumer protection, addressing issues such as transparency of information, data protection and accountability of financial service providers.

[BaFin - Functions & history](#)

⁴¹ [Consumer protection | Finansinspektionen](#)

According to the study conducted by the Organization for Economic Cooperation and Development (OECD)⁴², transparency of information, data protection and security, payment service providers' liability for the execution of the payment transaction, accessibility and financial inclusion are the most important aspects of consumer protection of financial (payment) services, the supervision of these requirements is aimed at ensuring accurate and transparent information to payment service users, communicating essential consumer information in a clear and accessible way, protecting the data and security of payment service transactions, preventing unauthorized access to consumers' personal and financial information, reimbursing the payment service user for fraud or errors in the payment service provided, sharing responsibility between consumers, payment service providers and other stakeholders, and of course promoting financial inclusion and access to safe and convenient payment services.

Another study that investigates existing regulations and policies in different countries to protect consumers of payment services is "Consumer Protection in Mobile Payments: A Cross-Country Analysis"⁴³ focusing on mobile payments, identifying risks and vulnerabilities in mobile payments, consumers' experience and their perception of the level of protection and security, which makes it possible to identify gaps and weaknesses in regulation and make recommendations to improve consumer experience and confidence, as well as explores how consumer protection regulation and policy in the area of mobile payments is adapting to technological changes and innovations in this field.

The findings of this research highlight concrete examples of good practices identified in various countries and, in particular, recommendations for regulators and supervisors on improving the regulation and protection of payment services consumers. However, in order to achieve these tasks, it is necessary to clearly dedicate these roles and assume the tasks related to the protection of consumers of payment services, which is perceived and applied in the national framework.

Internationally, the European Banking Authority (EBA) has an important role to play in protecting the rights and interests of consumers of financial services, including in relation to payment services. The main responsibilities of the EBA regarding this task refer to:

1. Develop and promote European standards and rules for payment services, by working together with European and national institutions to develop regulations and rules that protect consumers and promote healthy competition in the payment services market.
2. Supervision and monitoring of the payment services market, through the responsibility of monitoring the activity of payment service providers, as well as national supervisory authorities, to ensure that they comply with European regulations and rules.
3. Protecting consumers in disputes with payment service providers by providing assistance and guidance to consumers facing payment service issues, as well as an alternative dispute resolution system.
4. Promoting financial education and consumer awareness, promoting financial education and consumer awareness of their rights and options regarding payment services.

⁴² <https://www.oecd.org/daf/fin/financial-education/G20-OECD-report-on-financial-consumer-protection-and-financial-inclusion-in-the-context-of-covid-19.pdf>

⁴³ <https://www.oecd-ilibrary.org/docserver/5k9490gwp7f3-en.pdf?expires=1685108806&id=id&accname=guest&checksum=BBFFA0E8577348F39AAA7AF1D828832E>

Overall, EBA plays a key role in protecting the interests of financial services consumers and ensuring that the payment services market functions transparently, efficiently and for the benefit of consumers. At the same time, the policies and approaches developed and adopted on the subject of financial consumer protection of the authorities must evolve and adapt in accordance with the environment.

The issue of consumer protection supervision is discussed both at the level of the G20 [2] group, made up of 19 advanced and emerging economies and the European Union, as well as at the level of the Organisation for Economic Co-operation and Development (OECD), which is an international organisation that aims to promote economic and social policy worldwide, whose activities include:

1. Establishing safety and quality standards for products and services, as well as monitoring their implementation
2. Creating mechanisms for resolving disputes between consumers and suppliers
3. Promoting consumer education and information about their rights
4. Creating a legislative and institutional framework to protect consumers against unfair and fraudulent commercial practices.

Overall, the G20 and the OECD work to ensure that consumers have access to safe, high-quality and fairly priced products and services, and that their rights are protected in the global economy, as well as the implications for policymakers, supervisory bodies and financial consumers of an increasing digitalization of the financial services sector, financial consumer protection policy and the regulatory challenges and opportunities arising from financial innovation.

The D20 Task Force is responsible for the high-level principles on Financial Consumer Protection⁴⁴, which lay the foundations for a comprehensive financial consumer protection framework. The principles have been adopted by the OECD and endorsed by the G20.

While the G20/OECD High-Level Principles on Financial Consumer Protection lay the groundwork, they are supported by relevant practical elements and evidence-based guidance and examples on how they can be implemented in the form of effective approaches. Effective approaches, which are based on approaches used or tested in different jurisdictions, support jurisdictions to learn from each other and share perspectives and provide a 'toolbox' with policy options on how to enhance the protection of financial consumers. One of the main principles for the supervision of the consumer protection framework is the integration of consumer protection into legislation, the regulatory and supervisory framework, which should cover all financial services, including payment services, and this regulation must be proportionate to the characteristics, types, risks and diversity of financial services and consumer needs. This principle also requires the existence of robust and effective legal supervisory mechanisms, including sanctions against misconduct, financial fraud and abuse.

Another principle talks about the role of supervisory bodies expressly dedicated and directly responsible for the protection of consumers of financial services. Cooperation with other financial services supervisors and the exchange of information between authorities or various sectoral structures is also essential and should be encouraged, paying particular attention to consumer protection issues arising from payment transactions, as well as the risks that may arise from the digitalization of these financial services.

The Directorate for the supervision of compliance with the regulatory framework regulating the protection of consumers of financial services is assigned to the competences of the authorities that

⁴⁴ <https://www.oecd.org/daf/fin/financial-education/high-level-principles-on-financial-consumer-protection.htm>

supervise entities offering financial services, in particular payment services, these being usually Central Banks or specialized authorities for the protection of consumers of financial services. The special regulation that ensures the protection of consumers of payment services at European level is the EU Directive 2015/2366 on payment services in the internal market (PSD2) [1].

This Directive enhances the protection of the consumer of payment services by providing a solid legislative basis for carrying out payment transactions, contributing to better information and transparency of payment service conditions, in addition to reducing costs and promoting competition in the payment market. In addition, payment service providers that are covered by this Directive should establish a consumer complaint procedure, which they can use before claiming out-of-court compensation or before initiating legal proceedings. The new rules will oblige payment service providers to respond in writing to any complaint within 15 working days.

Directive (EU) 2015/2366 on payment services in the internal market (PSD2) also provides for the obligation of national authorities to monitor and enforce compliance with the provisions transposed into the local legislation of this directive.

Conclusions

The supervision of the consumer protection framework in the Republic of Moldova requires a concerted effort from the authorities, the private sector and civil society. By strengthening legislation and institutional roles, educating consumers and ensuring transparency, a safer and fairer consumer environment can be created. This approach will not only improve consumer experience but will also contribute to the sustainable economic development of the country.

Respectively, the main issues relevant to the supervision of the regulatory framework may include:

1. Clear highlighting of institutional roles (regulatory and supervisory)
2. Financial supervisory authorities, such as central banks, regulators have the responsibility to supervise and control the activities of financial service providers in terms of consumer protection. These authorities are responsible for monitoring compliance with regulations and standards in the financial industry and can impose sanctions or other corrective measures in case of irregularities.
3. Clear regulation of consumer rights and obligations of financial service providers-payment service providers
4. There are different regulations and standards that govern the activities of financial service providers and ensure consumer protection. These may include requirements for disclosure of information, publicity, transparency and disclosure of tariffs and fees, assessment of consumers' ability to repay, prevention of money laundering and combating terrorist financing. Supervisory authorities have the role of ensuring that financial service providers comply with these regulations and standards.
5. Supervision of compliance with the consumer protection framework by financial service providers-payment service providers.
6. Supervisors carry out regular monitoring and inspections to verify financial service providers' compliance with the regulatory framework. These activities may include the analysis of financial documents and reports, the verification of financial service providers' internal procedures and direct interactions with consumers to assess their level of compliance and satisfaction.
7. Submitting complaints and creating dispute resolution mechanisms

8. Oversight of the regulatory framework also includes the management of complaints and dispute resolution mechanisms between consumers and financial service providers. Supervisory authorities can play an active role in resolving these disputes and provide assistance and guidance to consumers in the process of resolving financial services issues.

9. Respect for the rights of consumers of payment services

10. The main rights of consumers in relation to payment services include: The right to clear and transparent information on the use of payment services (costs, general advance information, pre-contractual information, payment service conditions); The right to payment security and the protection of personal data; The right to receive a refund in the event of an unauthorised or erroneous payment transaction.

In general, the supervision of the regulatory framework for the protection of financial services consumers aims to ensure that financial service providers operate in an ethical, transparent manner and in accordance with the interests and rights of consumers.

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