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***Diagnostic Review of***

***Consumer Protection and***

***Financial Literacy***

**Volume II**

**Comparison with Good Practices**

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**ARMENIA**

**Diagnostic Review of Consumer Protection and**

**Financial Literacy**

**Volume II – Comparison with Good Practices**

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# Acronyms and Abbreviation

|  |  |
| --- | --- |
| AMD  AMMP  ATM  CBA | Armenian Drams  Association of Mortgage Market Participants  Automatic Teller Machine  Central Bank of Armenia |
| CCCO  CIU  CMTPLI  CPMC  EU  FSM  FX  GDP  IC  LIIA  MoES  MTPL  NGO  NPL  LFMS  LIF | Consulting Center of Credit Organizations of Armenia  Collective Investment Undertaking  Compulsory Motor Third Party Liability Insurance  Consumer Protection and Market Conduct  European Union  Financial System Mediator  Foreign Exchange  Gross Domestic Product  Investment Companies  Law on Insurance and Insurance Activities  Ministry of Education and Science  Motor third party liability  Non-governmental organization  Nonperforming Loan  Law on Financial System Mediator  Law on Investment Funds |
| LIIA  LSM | Law on Insurance and Insurance Activities  Law on Securities Market |
| MTPL  PCR | Motor Third Party Liability  Protection of Consumers' Rights |
| UBA  UCO | Union of Banks of Armenia  Union of Credit Organizations |
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|  | n.a. Not Available  $1 = 389.79 AMD (8 March 2012) |
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# Consumer Protection in the Banking Sector

### Overview

**While the banking sector stagnated or grew only slowly between 2000-2008, the share of both assets and loans to GDP grew faster after the 2008 crisis (Table 1).** At the time of the report, there were 22 banks licensed[[1]](#footnote-1) by the Central Bank of Armenia to operate in Armenia. The banking sector is supervised – as are all the other sectors of the financial market – by the Central Bank of Armenia, responsible for both prudential and market conduct supervision as well as for preparation of financial market regulation. The Armenian banks offer most typical banking products both on the deposit and credit sides of the banking products. However, the market is significantly influenced by the extensive dollarization of the country.

*Table 1: Total assets/loans of banking system to GDP*

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **%** | **2000** | **2001** | **2002** | **2003** | **2004** | **2005** | **2006** | **2007** | **2008** | **2009** | **2010** |
| **Total assets of banking system/GDP** | 22,8 | 19,8 | 18,4 | 17,6 | 19,1 | 19,6 | 19,7 | 24,3 | 28,7 | 42,7 | 44,5 |
| **Total loans of banking system/GDP** | 9,6 | 7,1 | 6,7 | 6,6 | 7,5 | 8,7 | 9,2 | 13,5 | 17,8 | 23,7 | 27,1 |

*Source: CBA*

**At the end of 2011, the total deposits of Armenian residents (both natural and legal persons) totaled over AMD 762.3 bn.** Another AMD 207.4 bn. was deposited in Armenian banks by non-residents, with 95% of these deposits made in other currencies then the Armenian AMD. As for the Armenian residents, only 38.9% of deposits were in the Armenian AMD and fully 61.1% in foreign currencies, especially the US dollar.

**Households use banks as the main savings institution.** With regard to demand deposits, households own 32.5 % of AMD-denominated demand deposits and 47.9 % of FX-denominated demand deposits. However, the market share of households is stronger in the time deposits with households owning 65.2 % of AMD-denominated time deposits and a full 83 % of FX-denominated time deposits. Among various foreign currencies, the US dollar is the main savings currency. The denomination of household savings in US dollars not only brings foreign currency risk to the retail savers but also significantly reduces Armenian banks' local currency sources for lending purposes.

**More than 62 % of all loans at the end of 2011 were extended in foreign currencies (see Table 2).** The lack of AMD deposits and the lack of currency swap products means that banks provide as much lending in US dollars as possible, reserving their AMD deposits for loans that must be extended in AMD (consumer credit) and that bring the highest return. All other loans are extended in US dollars with the consumer bearing all currency risks. While the ration of AMD vs. FX-denominated loans to households is 2:1, almost 80% of loans to legal entities are FX-denominated. As for the household lending, one third of FX-denominated loans belongs to mortgages. As the lending resources are limited, banks may be rather selective in extending credit which leads to low non-performing loan ratios (see Table 2)

*Table 2: Banking system loan structure*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **31.12.2011** | **AMD '000** | **Share** | **FX '000** | **Share** | **Total '000** |
| **Total Loans** | 465 349 797 | 37,70% | 768 968 859 | 62,30% | **1 234 318 656** |
| Loans to households including sole entrepreneurs\* | 281 892 775 | 66,35% | 142 933 367 | 33,65% | **424 826 142** |
| Including |  |  |  |  |  |
| *Consumer Loans* | 187 873 874 | 86,43% | 29 502 856 | 13,57% | **217 376 730** |
| *Mortgage Loans to Households* | 61 028 937 | 55,33% | 49 270 616 | 44,67% | **110 299 552** |
| Loans to legal entities\* | 150 968 994 | 20,78% | 575 572 682 | 79,22% | **726 541 676** |
| Loans to interrelated parties and employees /includes both legal entities and households/ | 18 318 595 | 30,98% | 40 808 182 | 69,02% | **59 126 777** |
| Leasing and factoring /includes both legal entities and households/ | 14 169 433 | 59,48% | 9 654 628 | 40,52% | **23 824 061** |

*Source: CBA \*Loans include consumer credits, mortgage, agricultural loans, etc*.

*Table 3: NPL ratio by sector*

|  |  |  |  |
| --- | --- | --- | --- |
| **non-performing loan ratio 31.12.2011** | **AMD** | **FX** | **Total** |
| Total loan portfolio | 2,9% | 3,7% | 3,4% |
| Mortgage loans | 4,9% | 5,2% | 5,0% |
| Consumer loans | 3,9% | 5,5% | 4,1% |

*Source: CBA*

### Comparison with Good Practices for the Banking Sector

|  |  |
| --- | --- |
| **SECTION A** | **CONSUMER PROTECTION INSTITUTIONS** |
| **Good Practice A.1.** | ***Consumer Protection Regime***  **The law should provide clear consumer protection rules regarding banking products and services, and all institutional arrangements should be in place to ensure the thorough, objective, timely and fair implementation and enforcement of all such rules.**   1. **Specific statutory provisions should create an effective regime for the protection of a consumer of any banking product or service.** 2. **A general consumer agency, a financial supervisory agency or a specialized financial consumer agency should be responsible for implementing, overseeing and enforcing consumer protection regarding banking products and services, as well as for collecting and analyzing data (including inquiries, complaints and disputes).** 3. **The designated agency should be funded adequately to enable it to carry out its mandates efficiently and effectively.** 4. **The work of the designated agency should be carried out with transparency, accountability and integrity.** 5. **There should be co-ordination and co-operation between the various institutions mandated to implement, oversee and enforce consumer protection and financial system regulation and supervision.** 6. **The law should also provide for, or at least not prohibit, a role for the private sector, including voluntary consumer organizations and self-regulatory organizations, in respect of consumer protection regarding banking products and services.** |
| **Description** | The legal system in Armenia provides clear consumer protection rules regarding bank accounts, deposits and consumer loan agreements. For mortgages, a new law is currently being drafted and the draft discussed among stakeholders.  Consumer protection rules and requirements are included in the following laws and regulations, issued by the Central Bank of Armenia as the integrated regulator and supervisor of the Armenian financial market:   * Law on Central Bank of Republic of Armenia * Law on Banks and Banking * Law on Guaranteeing Compensation and Bank Deposits * Law on Consumer Credits * Law on Attraction of Bank Deposits * Law on Bankruptcy of Banks, Credit Organizations, Investment Companies and Insurance Companies * Law on Financial System Mediator * Law on Circulation of Credit Information and Activities of Credit Bureaus * Law on Banking Secrecy * Regulation 8/01 “Explanations and Examples of the Calculation of Annual Percentage Rate of Charge” (CBA Board Resolution 363-N, 23 December 2008) * Regulation 8/02 on “The Calculation Of Annual Percentage Yield Of Bank Deposits” * Regulation 8/03 “Information Publication by Banks, Credit Organizations, Insurance Companies, Insurance Brokers, Investment Companies, Central Depository and Payment and Settlement Organizations Implementing Money Remittances” * Regulation 8/04 “Minimum Principles and Requirements on Internal Complaint Handling Processes in Financial Institutions” * Regulation 8/05 “Procedure, Terms, Forms and the Minimum Requirements for Communication Between Bank and Depositor, Creditor and Consumer” * Resolution 142-N on “Creation of Credit registry and terms and conditions of participation of banks, credit organizations and branches of foreign banks operating in Armenia”.   Until the new law on mortgages is passed, provisions of the Law on Banks and Banking, Regulation 8/03 and Regulation 8/05 apply to mortgages.  The Central Bank of the Republic of Armenia (CBA) is the institution tasked with complete regulation and supervision of the Armenian financial market, including pawn shops and foreign exchange bureaus. The CBA is also responsible for developing, implementing and enforcing consumer protection policy in Armenia.  The consumer protection mandate of the CBA stems from Article 5. 1. f) of the Law on the Central Bank, defining the objective of the CBA to "ensure essential conditions for protection of rights and lawful interests of the financial system consumers".  There is also a specific provision for consumer protection mandate in the securities market in the Article 5. 1. e) of the Law on the Central Bank that reads: "protect interests of investors in securities, organize and safeguard fair mechanisms of pricing in securities market, ensure fair, transparent, reliable operation and development of securities market".  There is a dedicated team of four people responsible for consumer protection and financial education within the Financial System Stability and Development department of the CBA. There is a board member of the CBA Board responsible for overseeing financial education activities of the CBA. However, no board member has such a responsibility for consumer protection.  Financial sector regulations (from laws through CBA Regulations to supervision manuals) are prepared by the Financial System Regulation department.  Legal opinions to both prepared regulations and conducted inspections are provided by the Legal department of the CBA. The Legal department is also responsible for licensing of financial institutions in Armenia.  Supervision of the financial market is conducted by the Financial Supervision department of the CBA. Supervisors use a combination of on-site and off-site supervision based on the yearly plan of supervision that takes into account key risk factors such as the size of the institution, its retail activities as well as complaints against the institution. On-site and off-site supervision functions are combined in one division and in most cases both on-site and off-site supervision of a financial institution is conducted by the same supervisor or group of supervisors to ensure fluid communication and interaction.  If resources allow, members of the consumer protection department join the most important on-site supervisions based on the consumer protection team's risk assessment of the inspected institution. When members of the consumer protection unit do not join the supervision due to their limited resources (only four employees are on the staff of the unit), the prudential supervisors still check the consumer protection requirements and report back to the consumer protection team to discuss further action if breaches of the consumer protection requirements are found. The supervisors base their work on three manuals prepared by the regulatory and consumer protection departments:   * on-site supervision manual * off-site supervision manual * market conduct supervision manual   The consumer protection team conducts all off-site inspection activities related to the consumer protection rules, especially monitoring disclosure requirements on websites of financial institutions.  Any infringements of consumer protection regulations identified during the inspection are included in the inspection report and are presented, together with the proposed action by the CBA, to the licensing and penalty committee of the CBA. The committee includes the senior managers of the Regulation, Supervision, Legal and Financial System Stability & Development departments and is the final authority at the CBA to assess penalties for regulatory infringements.  The number of cases related to consumer protection rules infringement has been steadily growing and is now close to 40% of all cases where a penalty is assessed by the CBA.  While the supervisors have extensive powers in their inspections, some internationally tested supervisory tools such as mystery shopping or investigations are not allowed by the Armenian law. As a result the enforcement of non-documentable requirements (one-on-one sales practices, oral communication with clients, etc.) cannot be effectively imposed.  While the integrated approach to prudential and market conduct supervision allows for good flow of information and supervisory coordination, there are two key areas that make the current system less effective:   * conflict of interests between prudential and market conduct supervision; * lack of investigations and mystery shopping power.   The collection and analysis of complaints, disputes and inquiries is regularly conducted by the CBA, including calls to the CBA's hotline and written complaints of costumers. These data are used for internal analysis and are not published. Similar complaint analysis is conducted by the Financial Services Mediator for complaints and inquiries directed to the mediator's office. Unlike the CBA, the Mediator regularly publishes data on complaints, disputes and inquiries it handles.  The supervisory activities of the CBA, as well as general consumer protection and financial education activities are funded from the CBA's budget.  The CBA has a memorandum of Understanding signed both with the Financial Services Mediator and the Competition Commission (two other authorities besides the CBA with impact on consumer protection in the area of financial services). The cooperation between the CBA and the Mediator seems to be functioning rather properly while the cooperation with the Competition Authority seems formal and could be further improved. The recently established Competition Division of the Supervision Department of the CBA could benefit from the know-how and international contacts the Competition Commission could share.  The Armenian legislation does not prohibit a role for the private sector, including voluntary consumer protection organizations, industry associations and self-regulatory organizations. While the Union of Armenian Banks seems to be very active and able to support some of the consumer protection and financial education activities, consumer organizations seem to be quite weak and unable to play a strong role in the protection of consumers of financial services. |
| **Recommendation** | A member of the board of the CBA should be made responsible for the consumer protection agenda just as there is a board member responsible for the issue of financial education.  As the consumer protection team at the CBA faces many tasks across financial regulation and supervision, it should be set up as a separate consumer protection department. The consumer protection department should be responsible for four key areas:   * preparation and continuous improvement of the market conduct regulatory framework, in cooperation with the Financial System Regulation department * on-site and off-site market conduct supervision (including market monitoring) by independent supervisors within the consumer protection department, coordinationg its activities with the prudential supervisors whenever possible * financial education by the consumer protection department staff * international cooperation to present the Armenian example of well-designed consumer protection policies.   Enforcement procedures should not be changed as they are adequately designed for both the prudential and market conduct supervision.  While the funding and remuneration of staff seems to be appropriate, attention should be paid to the proper staffing level that would ensure the consumer protection department functions effectively and can properly carry out its mandate. To ensure that the department has adequate resources, an institutional needs analysis to identify and prioritize its tasks and define appropriate resources should be conducted. Based on the analysis, a long-term capacity building program needs to be put in place to ensure the continued high level of consumer protection and effective implementation of the proposed consumer protection policies. In the meantime, the capacity of the Consumer Protection and Market Conduct (CPMC) Division should be further strengthened.  The effectiveness of market conduct supervision could be improved in two areas:   * by allowing the market conduct supervisors to use mystery shopping as a legally acceptable tool for collecting information on market conduct (including admissibility of the mystery shopping results in the enforcement proceedings)      * including the full range of investigative tools set forth in the EU MiFID Directive   The CBA (as well as the Financial System Mediator and the Stock Exchange as the self-regulatory organization) could also improve impact of its disciplinary actions by publishing all decisions of disciplinary actions. A register of licensed financial institutions, managed by the CBA, should include the disciplinary history of all licensed entities and include all sanctions awarded to the entity by the CBA, the Financial System Mediator or the self-regulatory organizations such as the Stock Exchange.  Consumer protection rights in the terms of disclosure and access to the Financial System Mediator should be extended not only to private individuals but also to sole entrepreneurs, micro- and small-size businesses (as defined by the Armenian legislation). |
| **Good Practice A.2** | ***Code of Conduct for Banks***   1. **There should be a principles-based code of conduct for banks that is devised by all banks or the banking association in consultation with the financial supervisory agency and consumer associations, if possible. Monitored by a statutory agency or an effective self-regulatory agency, this code should be formally adhered to by all sector-specific institutions.** 2. **If a principles-based code of conduct exists, it should be publicized and disseminated to the general public.** 3. **The principles-based code should be augmented by voluntary codes of conduct for banks on such matters as facilitating the easy switching of consumers’ current accounts and establishing a common terminology in the banking industry for the description of banks’ charges, services and products.** 4. **Every such voluntary code should likewise be publicized and disseminated.** |
| **Description** | In 2008 the Union of Banks of Armenia (UBA) developed and implemented its Code of Banking Ethics[[2]](#footnote-2). The Code aims to build trust, solidarity and transparency in the banking system of Armenia for the benefit of all stakeholders including employees and customers. There is also a Code of Corporate Governance related to governance issues in the banks.  While the Code of Banking Ethics should be followed by all member banks, there are no provisions for sanctions if the Code is breached. The compliance has been voluntary but information obtained from the banks shows that there is an informal mechanism through which banks monitor the compliance with the code and may agree on dealing with any violations.  Besides the Code of Banking Ethics, there are no other voluntary codes of conduct in Armenia. There are also no requirements for banks to publicize and disseminate the Code of Banking Ethics to the general public. |
| **Recommendation** | The UBA, the CBA and the Mediator should strive to improve the Code of Banking Ethics in two key areas:   * content: based on the most often repeated market conduct issues the CBA and the Mediator deal with, the UBA should update the Code to deal with these issues      * enforceability: if a breach of the Code is reported to the Union, there should be a mechanism that would allow the Union to verify the claim and if necessary, ensure the bank's compliance with the Code   Member banks should display the Code prominently on their websites and make copies available to the public in their branches. Also, member banks and the Union should publicize the Code to inform the public about the banks' commitments. |
| **Good Practice A.3** | ***Appropriate Allocation between Prudential Supervision and Consumer Protection***  **Whether prudential supervision of banks and consumer protection regarding banking products and services are the responsibility of one or two organizations, the allocation of resources to these functions should be adequate to enable their effective implementation.** |
| **Description** | The employees of the CPMC Division are responsible for consumer protection in the following areas:   * Drafting regulations * Off-site monitoring of market conduct * On-site supervision * Financial education   The division currently consists of the division head and three full-time employees (with total CBA staff reaching 800 people).  In terms of regulatory work, the department primarily cooperates with the Financial System Regulation Department.  In terms of off-site monitoring of market conduct, the department conducts all off-site monitoring through own staff.  In terms of on-site inspections, the department staff can join prudential supervision personnel for any on-site inspection conducted by the CBA. When staff limits do not permit anybody from the department to join, market conduct issued are inspected by a prudential supervisor according to the market conduct inspection manual and the results are included in the final on-site inspection report. This arrangement ensures that market conduct issues are a part of every on-site inspection conducted by the CBA. However, consumer protection department is not allowed to conduct any on-site supervision without the consent of the prudential supervision department.  In terms of financial education, the department is responsible for all activities in this area, with a CBA board member overseeing the financial education agenda.  The CPMC Division is a part of the Financial System Stability and Development Department. |
| **Recommendation** | Currently, there are several market conduct supervision tasks being conducted by prudential supervisors. Also, the status of the consumer protection team should be elevated to a Department to be on par with the prudential and regulation departments.  As proposed in A.1 above, an institutional needs assessment should be conducted to define an appropriate level of staffing (including possible transfers from other departments) that would be able to handle the increasing volume of tasks for both market conduct supervision and financial education activities. |
| **Good Practice A.4** | ***Other Institutional Arrangements***   1. **The judicial system should ensure that the ultimate resolution of any dispute regarding a consumer protection matter in respect of a banking product or service is affordable, timely and professionally delivered.** 2. **The media and consumer associations should play an active role in promoting banking consumer protection.** |
| **Description** | The Office of the Financial System Mediator which is an independently-managed institution founded by the Central Bank of Armenia, is responsible for resolution of disputes between individual consumers and financial organizations. The Mediator’s services are free of charge. Compared to international standards, the complaint review process seems to be simple, swift, and transparent.  If an individual is not satisfied with the decision of the Mediator, he/she can bring the complaint to a court (as well as going to a court directly without first lodging his complaint with the Mediator).  While media cover personal finance and there are several consumer organizations, the general level of attention to consumer protection in the financial sector is low and there are no organized programs by either the media or consumer organizations. |
| **Recommendation** | To strengthen the judiciary's understanding of financial services, the CBA could develop an educational program for judges that would specialize in financial services disputes. However, with a strong and well designed Financial System Mediator, access to justice in financial services consumer complaints may be better improved by strengthening the Mediator's office and improving public knowledge about its existence.  Consumer organizations are not yet fully effective in supporting proper consumer protection environment in Armenia. To make the consumer organizations more effective, the CBA should consider supporting some of their consumer protection and financial literacy activities through education of NGO representatives so that they better understand financial services.  The CBA should also strive to strengthen the industry associations through regular coordination meetings of all stakeholders under the leadership of the CBA on consumer protection and financial education initiatives.  Similar educational activities could be targeted to journalists to better educate them about the negative impact of market misconduct and misselling of financial products. The CBA should also communicate key cases more actively and encourage media coverage of consumer finance.  Institutional capacity of consumer organizations should also be supported through international cooperation. International organizations such as Consumers International should identify effective Armenian projects for consumer protection in financial services with a yearly award for best projects.  Both international organizations and the CBA should provide grant funding and technical assistance to develop effective consumer protection activities for consumer organizations. Consumer organizations should also be assigned specific tasks, such as regular reporting on consumer complaints in financial services, monitoring unfair and aggressive advertising, conducting mystery shopping, distributing financial education materials, etc. |
| **Good Practice A.5** | ***Licensing***  **All banking institutions that provide financial services to consumers should be subject to a licensing and regulatory regime to ensure their financial safety and soundness and effective delivery of financial services.** |
| **Description** | All banks are obliged to be registered and licensed by the Central Bank of Armenia and are subject to regulatory regime (see Law on Central Bank, Article 20 and Law on Banks and Banking, Article 4).  Article 36 of the Law on Central Bank and Article 57 of Law on Banks and Banking gives the CBA the exclusive right for supervision of banks and authority to license banking activities.  Licensing of banks is conducted by the Legal Department of the CBA, prudential supervision by the Financial Supervision Department and market conduct supervision by the CPMC Division, part of the Financial System Stability and Development Department. |
| **Recommendation** | No recommendation. |
| **SECTION B** | **DISCLOSURE AND SALES PRACTICES** |
| **Good Practice B.1** | ***Information on Customers***   1. **When making a recommendation to a consumer, a bank should gather, file and record sufficient information from the consumer to enable the bank to render an appropriate product or service to that consumer.** 2. **The extent of information the bank gathers regarding a consumer should:**    1. **be commensurate with the nature and complexity of the product or service either being proposed to or sought by the consumer; and**    2. **enable the bank to provide a professional service to the consumer in accordance with that consumer’s capacity** |
| **Description** | According to the Regulation 4/07 on Requirements on Operation of Entities Providing Investment Services banks are required to gather sufficient information from a consumer in order to ensure that the bank’s recommendation, product or service is appropriate to that consumer for investment services and securities only.  The fulfillment of this responsibility is supervised by the CBA during on-site inspections.  There are no similar requirements in other areas of financial services. |
| **Recommendation** | A "Know Your Customer" policy should be required from all banks and their agents (if the banks use third party distributors to sell their products) so that they could prove the recommended product was the most appropriate to the client.  The "Know Your Customer" policy should require the banks to collect enough data about customers, their financial goals, risk profiles and their financial portfolio to match offered products with their needs. The information collected (of which the customer should always receive a copy) should also be used in any complaint resolution or lawsuit to prove whether the product was sold properly and in line with the consumer's interest.  The "Know Your Customer" policy should be applied not only to banking products but to any products (including investment, pension and insurance products) sold by bank representatives. |
| **Good Practice B.2** | ***Affordability***   1. **When a bank makes a recommendation regarding a product or service to a consumer, the product or service it offers to that consumer should be in line with the need of the consumer.** 2. **The consumer should be given a range of options to choose from to meet his or her requirements.** 3. **Sufficient information on the product or service should be provided to the consumer to enable him or her to select the most suitable and affordable product or service.** 4. **When offering a new credit product or service significantly increasing the amount of debt assumed by the consumer, the consumer’s credit worthiness should be properly assessed.** |
| **Description** | Requirement that a product should be in line with the needs of a consumer is defined only for investment services and securities, as defined in Regulation 4/07 on Requirements on Operation of Entities Providing Investment Services.  A range of options to choose from is required to be given only for investment services and securities, as defined in Regulation 4/07 on Requirements on Operation of Entities Providing Investment Services.  Requirement to provide sufficient information is defined in Regulation 8/05 (Chapter 4).  The Resolution 71-N on Approval of Minimum Requirements for Implementation of Internal Control System of Banks defines that banks must have in place internal regulations describing the loan granting procedure (Article 37). Under the rules, the bank must properly asses the consumer's creditworthiness to ensure proper risk management. |
| **Recommendation** | Based on the "Know Your Customer" policy, the banks should be responsible for offering only products suitable to the customer's needs. This duty should be legally defined and the consumer protection supervisor should regularly monitor how banks select products for their clients.  When offering a range of products, the banks should also properly explain each product so that the consumer can make an informed choice. The consumer protection supervisor should regularly conduct inspections through mystery shopping, its supervisory personnel posing as customers and verifying whether they have been provided with all relevant information and truthful explanations of risks and rewards for each offered product.  The rules above should also apply to any third-party selling financial products on behalf of banks. |
| **Good Practice B.3** | ***Cooling-off Period***   1. **Unless explicitly waived in advance by a consumer in writing, a bank should provide the consumer a cooling-off period of a reasonable number of days (at least 3-5 business days) immediately following the signing of any agreement between the bank and the consumer.** 2. **On his or her written notice to the bank during the cooling-off period, the consumer should be permitted to cancel or treat the agreement as null and void without penalty to the consumer of any kind.** |
| **Description** | A 7 working days cooling-off period without any penalties is defined in Article 9 of The Law on Consumer Credit, according to which "Consumers have the right to unilaterally cancel credit agreement without any substantiation within 7 working days after its signature, unless a longer period is established by credit agreement (period of contemplation). Consumer shall pay interest to creditor for the use of credit, which shall be accrued pursuant to annual percentage rate established under credit agreement. No other compensation shall be required from consumer relating to termination of credit agreement."  This "cooling-off period" is available for consumer credit only. |
| **Recommendation** | The information about the cooling-off period for consumer credit should be prominently displayed in the Key Facts Statement (see B.8 below). |
| **Good Practice B.4** | ***Bundling and Tying Clauses***   1. **As much as possible, banks should avoid bundling services and products and the use of tying clauses in contracts that restrict the choice of consumers.** 2. **In particular, whenever a borrower is obliged by a bank to purchase any product, including an insurance policy, as a pre-condition for receiving a loan from the bank, the borrower should be free to choose the provider of the product and this information should be made known to the borrower.** |
| **Description** | According to the Law on Banks and Banking (Article 38. 3: "On signing a loan or any other agreement with a customer, the bank may not oblige the customer to sign any additional banking agreement."), banks may not limit consumers' choice of other banking products.  However, there are no special legal provisions regarding buying of other financial products. In practice, if insurance is required under a credit contract, the customers are free to choose from the list of such product providers presented by the bank extending the credit. However, the credit provider influences the decision by including only some of the insurance providers on the list. |
| **Recommendation** | The CBA should – in cooperation with consumer representatives – conduct regular studies of selling tied products. Each consumer should always have at least two insurance options from different insurers to choose from and the CBA should monitor whether prices of the offered insurance options reflect competitive environment.  Also, the total remuneration of the bank from the insurer through commissions, bonuses, profit-sharing arrangement or any other form of payment related to the sales of insurance products tied to banking products should not exceed 30% of yearly premium. For life insurance products, the follow-up commission from the second year on should not exceed 5% of yearly premium. |
| **Good Practice B.5** | ***Preservation of Rights***  **Except where permitted by applicable legislation, in any communication or agreement with a consumer, a bank should not exclude or restrict, or seek to exclude or restrict:**   1. **any duty to act with skill, care and diligence toward the consumer in connection with the provision by the bank of any financial service or product; or** 2. **any liability arising from the bank’s failure to exercise its duty to act with skill, care and diligence in the provision of any financial service or product to the consumer** |
| **Description** | There are no legal provisions to the effect of this good practice.  Some banks in Armenia seek to limit their costs by limiting distribution of bank statements. According to Article 6.1 of the Law on Attraction of Bank Deposits, customers must be provided with an account statement at least every 30 days if any operation has been recorded during the period. While the standard approach is to mail the statement, some banks ask clients to sign waivers and agree to collect their statements at a bank branch, thus placing an undue burden on consumer. |
| **Recommendation** | The CBA should investigate the reports about the statement mailing waivers and take action if necessary. |
| **Good Practice B.6** | ***Regulatory Status Disclosure***  **In all of its advertising, whether by print, television, radio or otherwise, a bank should disclose the fact that it is a regulated entity and the name and contact details of the regulator.** |
| **Description** | The disclosure is not required. |
| **Recommendation** | All advertising should state that the entity is licensed and regulated by the CBA. |
| **Good Practice B.7** | ***Terms and Conditions***   1. **Before a consumer opens a deposit, current (checking) or loan account at a bank, the bank should make available to the consumer a written copy of its general terms and conditions, as well as all terms and conditions that apply to the account to be opened. Collectively, these Terms and Conditions should include:** 2. **disclosure of details of the bank’s general charges;** 3. **a summary of the bank’s complaints procedures;** 4. **a statement regarding the existence of the office of banking ombudsman or equivalent institution and basic information relating to its process and procedures;** 5. **information about any compensation scheme that the bank is a member of;** 6. **an outline of the action and remedies which the bank may take in the event of a default by the consumer;** 7. **the principles-based code of conduct, if any, referred to in A.2 above;** 8. **information on the methods of computing interest rates paid by or charged to the consumer, any relevant non-interest charges or fees related to the product offered to the consumer;** 9. **any service charges to be paid by the consumer, restrictions, if any, on account transfers by the consumer, and the procedures for closing an account; and** 10. **clear rules on the reporting procedures that the consumer should follow in the case of unauthorized transactions in general, and stolen cards in particular, as well as the bank’s liability in such cases facilitates the reading of every word.** |
| **Description** | The Regulation 8/03 requires that the information on services provided by companies is made accessible for consumers free of charge at the place of business of the company at least in the form of informational bulletins. Each information bulletin contains general terms and conditions of the service provided.  The Regulation 8/03 also clearly defines how and in what structure (including the structure of banks' websites) information should be presented to make the published information as comparable and user-friendly as possible.  As for the materials to be given to the consumer besides the general terms and conditions, the following must be provided to each client:   * details of the bank’s general charges, * the bank’s complaints procedures, * the existence and contacts for the Financial System Mediator, * information about any compensation scheme that the bank is a member of * an outline of the action and remedies which the bank may take in the event of a default by the consumer   For deposit products, the computation of the interest rate is defined by the Regulation 8/02 on "The Calculation Of Annual Percentage Yield Of Bank Deposits".  For consumer credit, there is a legally defined computation of APR (annual percentage rate) for consumer credit. The information on APR must be included both in bulletins and in credit contracts. |
| **Recommendation** | The CBA should – in cooperation with consumer organizations – analyze the understandability of the disclosure materials by an average consumer and support comparability of the disclosure materials among financial institutions.  The CBA should also require that all point-of-sale staff is able to explain all the disclosed information plainly and truthfully. Mystery shopping should be used by the CBA to verify this requirement and the CBA may also provide grants to consumer organizations to conduct tests and mystery shopping throughout Armenia. However, if consumer organizations are involved, the methodology of their mystery shopping should be agreed by the CBA. |
| **Good Practice B.8** | ***Key Facts Statement***   1. **A bank should have a Key Facts Statement for each of its accounts, types of loans or other products or services and provide these to its customers and potential customers.** 2. **The Key Facts Statement should be written in plain language and summarize in a page or two the key terms and conditions of the specific banking product or service.** 3. **Prior to a consumer opening any account at, or signing any loan agreement with, the bank, the consumer should have delivered a signed statement to the bank to the effect that he or she has duly received, read and understood the relevant Key Facts Statement from the bank.** 4. **Key Facts Statements throughout the banking sector should be written in such a way as to allow consumers the possibility of easily comparing products that are being offered by a range of banks.** |
| **Description** | There are no standard Key Facts Statements but Regulation 8/03, Chapter 9 provides detailed list of information that should be presented to a client through so-called information bulletins and through websites. |
| **Recommendation** | The law should require that all consumers are provided with a Key Facts Statement for any banking product and for any third-party product sold by bank representatives.  The content of the Key Facts Statement should be based on the existing requirements of the Regulation 8/03, Chapter 9, and defined specifically for each type of financial product.  The Key Facts Statement should have a unified format for each type of product with the format developed by the CBA in cooperation with the consumer NGOs and the UBA and issued as a CBA regulation.  Before the regulation is issued, the proposed Key Facts Statements should be verified by independent marketing analysis experts for their readability and understandability by an average consumer. The regulation should also define formulas for any calculations and define vocabulary terms to be used so that consumers may easily compare Key Facts Statements from various banks.  Besides information on key features and all relevant costs, the Key Facts Statements should also include the key legal obligations and information on sanctions the consumer may face if he breaches the contract (e.g. by demanding an early withdrawal, overdraft of his account, late payment of a loan installment, etc.).  The market conduct supervision manual should be updated to include verification whether banks provide the Key Facts Statements by requiring there is a signed copy on each consumer's file. |
| **Good Practice B.9** | ***Advertising and Sales Materials***   1. **Banks should ensure that their advertising and sales materials and procedures do not mislead customers.** 2. **All advertising and sales materials of banks should be easily readable and understandable by the general public.** 3. **Banks should be legally responsible for all statements made in their advertising and sales materials (i.e. be subject to the penalties under the law for making any false or misleading statements)** |
| **Description** | All banks are required by law to ensure that advertising and sales materials and procedures do not mislead customers. Banks are also legally responsible for all statements made in their advertising and sales materials.  The relevant regulations include:   * [Law on “Banks and Banking](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Banking/Banks_and_banking_law.pdf)” (Article 43), * Law on “Consumer Credit” (Articles 16 and 17), * Law on “Advertisement” * [Regulation 8/03](http://lexbox.am/uploads/PDF/General/Regulation_8_03.pdf) (Chapter 6)   The compliance with the requirements is a part of off-site inspection conducted by the consumer protection team at the CBA. |
| **Recommendation** | As part of the institutional needs assessment of the marked conduct supervision of the CBA, the ability to properly monitor advertising should be verified. Also, the cooperation with the UBA could be strengthened as there are rules against improper advertising in the Code of Banking Ethics and the UBA could become a stronger enforcer of a level playing field (especially monitoring unfair advertising and aggressive business practices).  With regard to contracts, the law should stipulate that the consumer has a right to receive a contract before signature and that he has a right to study the contract.  To further improve the understanding of the public and to avoid mistreatment of consumers through hard-to-understand contracts, standardized contracts clauses that would unify the main definitions for each type of financial product should be prepared by industry associations under the coordination from the CBA, so that the level of consumer understanding is as similar as possible across product providers.  A website with model contracts with standard clauses implemented for various products and with explanations of key provisions in each model contract should be set up under the leadership of the CBA. |
| **Good Practice B.10** | ***Third-Party Guarantees***  **A bank should not advertise either an actual or future deposit or interest rate payable on a deposit as being guaranteed or partially guaranteed unless there is a legally enforceable agreement between the bank and a third party who or which has provided such a guarantee. In the event such an agreement exists, the advertisement should state:**   1. **the extent of the guarantee;** 2. **the name and contact details of the party providing the guarantee; and** 3. **in the event the party providing the guarantee is in any way connected to the bank, the precise nature of that relationship.** |
| **Description** | This requirement is not regulated, only general provisions against misleading advertising apply as described in B.9 above. |
| **Recommendation** | The CBA should consider whether the general ban on misleading advertising gives it sufficient powers to act against misleading presentation of guarantees.  The CBA should also encourage consumer organizations to monitor financial services advertising to assist it in collecting questionable advertising practices.  The CBA should make its decisions regarding unfair advertising public and explain why it considers any specific advertising in breach of regulations. These rulings can then inform banks and their advertising agencies as to what is still an acceptable practice and what forms of advertising will not be allowed. |
| **Good Practice B.11.** | ***Professional Competence***   1. **In order to avoid any misrepresentation of fact to a consumer, any bank staff member who deals directly with consumers, or who prepares bank advertisements (or other materials of the bank for external distribution), or who markets any service or product of the bank should be familiar with the legislative, regulatory and code of conduct guidance requirements relevant to his or her work, as well as with the details of any product or service of the bank which he or she sells or promotes.** 2. **Regulators and associations of banks should collaborate to establish and administer minimum competency requirements for any bank staff member who: (i) deals directly with consumers, (ii) prepares any Key Facts Statement or any advertisement for the bank, or (iii) markets the bank’s services and products.** |
| **Description** | There are no specific requirements for the staff dealing directly with consumers and the training of the point-of-sale staff is considered to be an internal issue of each bank. |
| **Recommendation** | There should be minimum competency standards set for the members of banks' staff that directly sell financial products to the public, sole entrepreneurs and micro- and small-size businesses.  The minimum competency standards should focus on the following areas:   * functioning of financial products, including legal obligations related to signing a financial-service contract      * ability to discuss financial planning with consumers and explain the potential impact of various financial products on their financial well-being, including the relationship of risk and reward * explain consumer rights the client has, including procedures for settling any claim or dispute   The standards should be set by the CBA in cooperation with the UBA. While the training should be left with the banks (or through third parties the banks select), the CBA should verify the content of the training programs and should participate in verification of the competency standards. However, conduct of any exams should be done by either the UBA or through a third party, with CBA acting as a body verifying the integrity of the examination.  With regard to the marketing staff, each bank should have established internal procedures through which any documents addressed to the public are checked and approved from compliance perspective. |
| **SECTION C** | **CUSTOMER ACCOUNT HANDLING AND MAINTENANCE** |
| **Good Practice C.1** | ***Statements***   1. **Unless a bank receives a customer’s prior signed authorization to the contrary, the bank should issue, and provide the customer free of charge, a monthly statement of every account the bank operates for the customer.** 2. **Each such statement should: (i) set out all transactions concerning the account during the period covered by the statement; and (ii) provide details of the interest rate(s) applied to the account during the period covered by the statement.** 3. **Each credit card statement should set out the minimum payment required and the total interest cost that will accrue, if the cardholder makes only the required minimum payment.** 4. **Each mortgage or other loan account statement should clearly indicate the amount paid during the period covered by the statement, the total outstanding amount still owing, the allocation of payment to the principal and interest and, if applicable, the up-to-date accrual of taxes paid.** 5. **A bank should notify a customer of long periods of inactivity of any account of the customer and provide a reasonable final notice in writing to the customer if the funds are to be treated as unclaimed money.** 6. **When a customer signs up for paperless statements, such statements should be in an easy-to-read and readily understandable format.** |
| **Description** | Banks are required to provide every customer with a monthly statement regarding every deposit account and consumer credit account the bank operates for the customer. The statement must show all transactions concerning the account during the period covered by the statement and provide details of the interest rate(s) applied to the account during the period covered by the statement. The requirement is defined in the Law on Attraction of Banking Deposits (Article 6), Law on Consumer Credit (Article 17), and [Regulation 8/05,](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Banking/Regulation_8_05.pdf) (points 22 & 23).  However, several consumer organizations pointed out what they consider a widespread practice: customers being asked to sign waivers to mailed statements, agreeing to collect their statements at the bank branches.  The regulations allow for emailed electronic statements. There is no legal requirement for banks to prove customers actually received the statements in case of dispute.  There are no specific regulations regarding the format and / or content of mortgage loan statements.  According to the Law on Attraction of Banking Deposits (Article 6, point 2) banks are not obliged to provide banking statement to depositor if during the period under review the account was not debited or credited.  According to Regulation 8/03 (Chapter 9) banks are obliged to disclose both in information bulletins and on their websites the fact that a deposit contract is deemed to be prolonged as a demand deposit if the depositor does not require the payment of the amount of the term deposit after its maturity.  There are no other specific requirements concerning notifications of any inactive account or provision of any final notices. |
| **Recommendation** | The CBA should investigate the reports about the statement mailing waivers and take action if necessary.  As for the consumer credit, credit card and mortgage statements, the CBA could consider regulating the content of the statements to ensure consumers understand their obligations. The CBA should also verify through independent testing whether consumers understand the disclosure documents well.  Consumer credit statements should include the following items on a CBA-prescribed format to make the disclosure documents simple and comparable:   * amount paid during the period covered by the statement * the allocation of payment to the principal and interest * the total outstanding amount still owed * overdue payments and sanctions for late payments * information about the credit bureau and the consumer's right to request a free copy of his report once a year.   Credit card statements should include the following items on a CBA-prescribed format to make the disclosure documents simple and comparable:   * all credit card transactions * all fees and interest due * the total amount owed * the minimum payment required * the total interest cost that will accrue if the cardholder makes only the required minimum payment * information about the credit bureau and the consumer's right to request a free copy of his report once a year.   For mortgages, the statements should be issued at least once a year and should include the following items on a CBA-prescribed format to make the disclosure documents simple and comparable:   * amount paid during the period covered by the statement * the allocation of payment to the principal and interest * the total outstanding amount still owed * overdue payments and sanctions for late payments * information about the credit bureau and the consumer's right to request a free copy of his report once a year. |
| **Good Practice C.2** | ***Notification of Changes in Interest Rates and Non-interest Charges***   1. **A customer of a bank should be notified in writing by the bank of any change in:** 2. **The interest rate to be paid or charged on any account of the customer as soon as possible; and** 3. **A non-interest charge on any account of the customer a reasonable period in advance of the effective date of the change.** 4. **If the revised terms are not acceptable to the customer, he or she should have the right to exit the contract without penalty, provided such right is exercised within a reasonable period.** 5. **The bank should inform the customer of the foregoing right whenever a notice of change under paragraph a. is made by the bank.** |
| **Description** | The [Regulation 8/05](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Banking/Regulation_8_05.pdf) (point 15) requires that during the term of deposit or credit agreement the bank shall inform the client about the following:   1. changes of nominal interest rate 2. changes of procedure of communication between parties 3. changes of those regulations which have direct impact on client's rights and obligations related to the product in question 4. changes of general terms of service and other relevant rules 5. changes of events directly impacting on rights, obligations or responsibilities of parties arising from the agreement.   The information about the changes shall be provided to the client after adopting the corresponding change but no later than 7 working days before the change takes effect. In other cases, the information about changes shall be provided to the client no later than after 7 working days since the corresponding changes take effect and bank is informed about it. ([Regulation 8/05](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Banking/Regulation_8_05.pdf) point 17) |
| **Recommendation** | The law should give the consumers a right to terminate their contracts free of charge within two months if they disagree with the proposed changes. |
| **Good Practice C.3** | ***Customer Records***   * 1. **A bank should maintain up-to-date records in respect of each customer of the bank that contain the following:**  1. **a copy of all documents required to identify the customer and provide the customer’s profile;** 2. **the customer’s address, telephone number and all other customer contact details;** 3. **any information or document in connection with the customer that has been prepared in compliance with any statute, regulation or code of conduct;** 4. **details of all products and services provided by the bank to the customer;** 5. **all documents and applications of the bank completed, signed and submitted to the bank by the customer;** 6. **a copy of all original documents submitted by the customer in support of an application by the customer for the provision of a product or service by the bank; and** 7. **any other relevant information concerning the customer.**    1. **A law or regulation should provide the minimum permissible period for retaining all such records and, throughout this period, the customer should be provided ready access to all such records free of charge or for a reasonable fee.** |
| **Description** | The Resolution 71-N, Article 20 on Approval of Minimum Requirements for Implementation of Internal Control System of Banks requires banks to have reliable information systems. Information must be reliable, complete and secured against unauthorized access. Interbank information flows and document flows systems are used in all levels of management for implementing various banking functions and for implementing monitoring, including risk management.  The [Resolution 71-N, Article 37](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Banking/Resolution_71_N.pdf) also defines that banks must have in place internal regulations describing the loan granting procedures.  The Resolution 71-N, Article 41 requires that loan books at least include the following documents:   * 1. loan application/proposal,   2. decision of credit committee or other competent authority or individual,   3. credit contract,   4. borrower rating (if available),   5. documents proving legal status of the borrower,   6. documents certifying requests received from credit registry or bureau (if available),   7. contract of pledge or other forms of security (if used),   8. other documents concerning pledge or other forms of security (if applicable),   9. business plan of the borrower or other information on which the expectation of repayment of the loan is based,   10. financial statements of the borrower (if applicable),   11. analysis of the borrower's financial statements (if applicable),   12. any correspondence with the borrower (if applicable),   13. records about meetings and phone conversations with the borrower verified by a responsible person in the bank (if applicable).   The Resolution 71-N, Article 42 also requires that documents available in loan books should at least include the following information (either in electronic or paper version):   1. the borrower's name and occupation (for legal entities: name and type of activity), 2. the name and occupation of pledgers or guarantors (if applicable), 3. date of providing the loan and repayment schedule, 4. loan amount (initial amount and current balance), 5. purpose of loan, 6. loan interest rate and repayment schedule, 7. type of collateral and estimated value (if collateral is used), 8. loan status: current or overdue (how long), 9. loan restructurings and prolongings, description of reasons for any revision of the loan contract, 10. results of internal and external examinations related to the loan, 11. loan classification, reasons for classifications, 12. information about measures undertaken for recovery of non-performing loans, 13. information concerning other funds received by the borrower or related parties from the bank.   The [Resolution 71-N, Article 72](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Banking/Resolution_71_N.pdf) further requires that banks must have at least the following information about their clients:   1. name and address of individuals, name and place of business for legal entities, 2. occupation for individuals, type of business for legal entities, 3. form of interrelation, 4. relationship with the bank, including all types of borrowings, all investments made, any collateral, other liabilities and deposits, from the bank (and if the information is available, also from other banks), borrowings given to the bank.   Banks are required to keep credit documents 5 years after the agreements deadline. Deposit documents must be kept forever.  Customers’ access to these records is not regulated. |
| **Recommendation** | No recommendation. |
| **Good Practice C.4** | ***Paper and Electronic Checks***   1. **The law and code of conduct should provide for clear rules on the issuance and clearing of paper checks that include, among other things, rules on:** 2. **checks drawn on an account that has insufficient funds;** 3. **the consequences of issuing a check without sufficient funds;** 4. **the duration within which funds of a cleared check should be credited into the customer’s account;** 5. **the procedures on countermanding or stopping payment on a check by a customer;** 6. **charges by a bank on the issuance and clearance of checks;** 7. **liability of the parties in the case of check fraud; and** 8. **error resolution** 9. **A customer should be told of the consequences of issuing a paper check without sufficient funds at the time the customer opens a checking account.** 10. **A bank should provide the customer with clear, easily accessible and understandable information regarding electronic checks, as well the cost of using them.** 11. **In respect of electronic or credit card checks , a bank should inform each customer in particular:** 12. **how the use of a credit card check differs from the use of a credit card;** 13. **of the interest rate that applies and whether this differs from the rate charged for credit card purchases;** 14. **when interest is charged and whether there is an interest free period, and if so, for how long;** 15. **whether additional fees or charges apply and, if so, on what basis and to what extent; and** 16. **whether the protection afforded to the customer making a purchase using a credit card check differs from that afforded when using a credit card and, if so, the specific differences.** 17. **Credit card checks should not be sent to a consumer without the consumer’s prior written consent.** 18. **There should be clear rules on procedures for dealing with authentication, error resolution and cases of fraud.** |
| **Description** | Rules regarding checks are regulated by the Regulation 238-N on Issuing, Servicing, and Circulation of Checks in the Republic of Armenia.  The bank can refuse paying check if there are insufficient funds on the account (point 31 of the Regulation). If the check is issued in Armenia the payment can be made within 10 days, if it is issued abroad the payment can be made within 30 days. Charges for check issuing or cashing are not regulated.  Armenian banks don’t offer credit card checks. |
| **Recommendation** | No recommendation. |
| **Good Practice C.5** | ***Credit Cards***   1. **There should be legal rules on the issuance of credit cards and related customer disclosure requirements.** 2. **Banks, as credit card issuers, should ensure that personalized disclosure requirements are made in all credit card offers, including the fees and charges (including finance charges), credit limit, penalty interest rates and method of calculating the minimum monthly payment** 3. **Banks should not be permitted to impose charges or fees on pre-approved credit cards that have not been accepted by the customer.** 4. **Consumers should be given personalized minimum payment warnings on each monthly statement and the total interest costs that will accrue if the cardholder makes only the requested minimum payment.** 5. **Among other things, the legal rules should also:** 6. **restrict or impose conditions on the issuance and marketing of credit cards to young adults (below age of 21) who have no independent means of income;** 7. **require reasonable notice of changes in fees and interest rates increase;** 8. **prevent the application of new higher penalty interest rates to the entire existing balance, including past purchases made at a lower interest rate;** 9. **limit fees that can be imposed, such as those charged when consumers exceed their credit limits;** 10. **prohibit a practice called double-cycle billing by which card issuers charge interest over two billing cycles rather than one;** 11. **prevent credit card issuers from allocating monthly payments in ways that maximize interest charges to consumers; and** 12. **limit up-front fees charged on sub-prime credit cards issued to individuals with bad credit.** 13. **There should be clear rules on error resolution, reporting of unauthorized transactions and of stolen cards, with the ensuing liability of the customer being made clear to the customer prior to his or her acceptance of the credit card.** 14. **Banks and issuers should conduct consumer awareness programs on the misuse of credit cards, credit card over- indebtedness and prevention of fraud.** |
| **Description** | Banks are required to ensure that personalized disclosure concerning the fees and charges, credit limit, penalty interest rates and method of calculating the minimum monthly payment is properly provided and the disclosure is checked during on-site inspections. The requirements are stated in the [Regulation 8/05](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Banking/Regulation_8_05.pdf) (Chapter 4), [Regulation 8/03](http://lexbox.am/uploads/PDF/General/Regulation_8_03.pdf) (Points 49 and 50) and Resolution 39-N on Issuance, Acquiring and Circulation of Payment Cards in Armenia (Articles 13 and 14).  There is no regulation on personalized minimum payment warnings on each monthly statement and the total interest costs that will accrue if the cardholder makes only the requested minimum payment.  Rules for error resolution, reporting of unauthorized transactions and of stolen cards are defined in the Resolution 39-N on Issuance, Acquiring and Circulation of Payment Cards in Armenia (Articles 13, 14 & 15) and in the Resolution 71-Non Approval of Minimum Requirements for Implementation of Internal Control System of Banks (Article 56).  As part of the general regulatory environment, the rules on the issuance of credit cards and related customer disclosure requirements are regulated by the:     * Law on Attraction of Banking Deposit, * Law on Consumer credits * Regulation 8/03 * Regulation 8/05     The points a, c, d, e, f, g are not regulated. |
| **Recommendation** | The CBA could consider regulating the content and format of credit card statements. The credit card statements should include the following items on a CBA-prescribed format to make the disclosure documents simple and comparable:   * all credit card transactions * all fees and interest due * the total amount owed * the minimum payment required * the total interest cost that will accrue if the cardholder makes only the required minimum payment * information about the credit bureau and the consumer's right to request a free copy of his report once a year.   Based on the EU Consumer Credit Directive, the regulation of disclosure should require that effective interest rate for credit cards is shown for three typical versions of drawdown of funds. The UBA should assist the CBA in defining these typical scenarios to make it as relevant as possible.  The CBA should also closely monitor market practices towards young people and with pre-approved cards to ensure rules on providing only appropriate products are kept by the credit providers. |
| **Good Practice C.6** | ***Internet Banking and Mobile Phone Banking***   1. **The provision of internet banking and mobile phone banking (m-banking) should be supported by a sound legal and regulatory framework.** 2. **Regulators should ensure that banks or financial service providers providing internet and m-banking have in place a security program that ensures:** 3. **data privacy, confidentiality and data integrity;** 4. **authentication, identification of counterparties and access control;** 5. **non-repudiation of transactions;** 6. **a business continuity plan; and** 7. **the provision of sufficient notice when services are not available.** 8. **Banks should also implement an oversight program to monitor third-party control conditions and performance, especially when agents are used for carrying out m-banking.** 9. **A customer should be informed by the bank whether fees or charges apply for internet or m-banking and, if so, on what basis and how much.** 10. **There should be clear rules on the procedures for error resolution and fraud.** 11. **Authorities should encourage banks and service providers to undertake measures to increase consumer awareness regarding internet and m-banking transactions.** |
| **Description** | There is no specific regulatory framework in place for internet banking. Resolution 71-N on Approval of Minimum Requirements for Implementation of Internal Control System of Banks requires the banks to have sufficient information technology policies and processes that address information security and system development. The technology must be commensurate with the size and complexity of operations (see Article 23 of the Resolution).  Fee disclosure rules are based on the Regulation 8/03 (chapter 9) that requires banks to publish all relevant information about each provided service and product including fees and charges. |
| **Recommendation** | The CBA and the Financial System Mediator should monitor complaints related to internet banking. Should the number of complaints grow, the issue should be discussed with the UBA and if needed, a regulatory action should be taken.  The Resolution 71-N should be updated and include the requirement that banks must report any significant attacks on their computer systems to the CBA. |
| **Good Practice C.7** | ***Electronic Fund Transfers and Remittances***   1. **There should be clear rules on the rights, liabilities and responsibilities of the parties involved in any electronic fund transfer.** 2. **Banks should provide information to consumers on prices and service features of electronic fund transfers and remittances in easily accessible and understandable forms. As far as possible, this information should include:** 3. **the total price (e.g. fees for the sender and the receiver, foreign exchange rates and other costs);** 4. **the time it will take the funds to reach the receiver;** 5. **the locations of the access points for sender and receiver; and** 6. **the terms and conditions of electronic fund transfer services that apply to the customer.** 7. **To ensure transparency, it should be made clear to the sender if the price or other aspects of the service vary according to different circumstances, and the bank should disclose this information without imposing any requirements on the consumer.** 8. **A bank that sends or receives an electronic fund transfer or remittance should document all essential information regarding the transfer and make this available to the customer who sends or receives the transfer or remittance without charge and on demand.** 9. **There should be clear, publicly available and easily applicable procedures in cases of errors and frauds in respect of electronic fund transfers and remittances** 10. **A customer should be informed of the terms and condition of the use of credit/debit cards outside the country including the foreign transaction fees and foreign exchange rates that may be applicable.** |
| **Description** | As defined in the Law on Fund Transfer by Payment Order (Article 6) and in the Regulation 8/03 (point 53), banks are required to provide information on prices and service features of electronic fund transfers and remittances including:  a) total price  b) the time it will take the funds to reach the receiver  c) the locations of the access points for sender and receiver  d) the terms and conditions to electronic fund transfers that apply to the customer. |
| **Recommendation** | No recommendation. |
| **Good Practice C.8** | ***Debt Recovery***   1. **A bank, agent of a bank and any third party should be prohibited from employing any abusive debt collection practice against any customer of the bank, including the use of any false statement, any unfair practice or the giving of false credit information to others.** 2. **The type of debt that can be collected on behalf of a bank, the person who can collect any such debt and the manner in which that debt can be collected should be indicated to the customer of the bank when the credit agreement giving rise to the debt is entered into between the bank and the customer.** 3. **A debt collector should not contact any third party about a bank customer’s debt without informing that party of the debt collector’s right to do so; and the type of information that the debt collector is seeking.** 4. **Where sale or transfer of debt without borrower consent is allowed by law, the borrower should be:** 5. **notified of the sale or transfer within a reasonable number of days;** 6. **informed that the borrower remains obligated on the debt; and** 7. **provided with information as to where to make payment, as well as the purchaser’s or transferee’s contact information.** |
| **Description** | As most loans provided by Armenian banks have a pledge or collateral against them, the volume of bad debt remains very low and debt collection has not developed as in some other countries.  Therefore, there are no specific rules for debt collection and thus no specific rules aimed at preventing abusive debt collection practices against any customer of a bank. |
| **Recommendation** | The CBA should encourage consumer organizations to monitor debt collection practices and report regularly to CBA. Based on this market monitoring, the CBA should consider whether debt collection rules need to be defined.  Should a law on debt collection be necessary, it should include the following:   * the CBA is the agency responsible for licensing and supervising debt collection agencies      * debt collection agencies would have to be licensed by the CBA and within the licensing process prove:   + adequate capital requirements, including the source of the capital   + adequate technical equipment, including a call center equipped to record all calls to and from debtors and a software that will be used for workflow management of debt collection and allow for all documents to be digitalized   + clear internal procedures and training programs for all employees that come into contact with debtors      * rules on communication with debtors, ban on aggressive and deceiving business practices      * require the debt collectors to inform credit history bureau when the debt is paid in full * set caps on maximum penalties and sanctions lenders may charge for late payments. |
| **Good Practice C.9** | ***Foreclosure of mortgaged or charged property***   1. **In the event that a bank exercises its right to foreclose on a property that serves as collateral for a loan, the bank should inform the consumer in writing in advance of the procedures involved, and the process to be employed by the bank to foreclose on the property it holds as collateral and the consequences thereof to the consumer.** 2. **At the same time, the bank should inform the consumer of the legal remedies and options available to him or her in respect of the foreclosure process.** 3. **If applicable, the bank should draw the consumer’s attention to the fact that the bank has a legal right to recover the balance of the debt due in the event the proceeds from the sale of the foreclosed property are not sufficient to fully discharge the outstanding amount.** 4. **In the event the mortgage contract or charge agreement permits the bank to enforce the contract without court assistance, the bank should ensure that it employs professional and legal means to enforce the contract, including regarding the sale of the property.** |
| **Description** | Besides the general requirement that any action of the bank must comply with the laws of Armenia, there are no specific regulations regarding foreclosures. All relationships between the client and his bank concerning mortgaged or charged property are regulated by the contract. |
| **Recommendation** | The CBA should encourage consumer organizations to monitor foreclosure practices and report regularly to CBA. Based on this market monitoring, the CBA should consider whether foreclosure rules need to be defined. |
| **Good Practice C.10** | ***Bankruptcy of Individuals***   1. **A bank should inform its individual customers in a timely manner and in writing on what basis the bank will seek to render a customer bankrupt, the steps it will take in this respect and the consequences of any individual’s bankruptcy.** 2. **Every individual customer should be given adequate notice and information by his or her bank to enable the customer to avoid bankruptcy.** 3. **Either directly or through its association of banks, every bank should make counseling services available to customers who are bankrupt or likely to become bankrupt.** 4. **The law should enable an individual to:** 5. **declare his or her intention to present a debtor’s petition for a declaration of bankruptcy;** 6. **propose a debt agreement;** 7. **propose a personal bankruptcy agreement; or** 8. **enter into voluntary bankruptcy.** 9. **Any institution acting as the bankruptcy office or trustee responsible for the administration and regulation of the personal bankruptcy system should provide adequate information to consumers on their options to deal with their own unmanageable debt.** |
| **Description** | The Bankruptcy Law regulates the insolvency of physical persons. |
| **Recommendation** | Consumer organizations should be encouraged to provide debt counseling services to the population. Consumer NGOs dealing with overindebted individuals should evaluate the effectiveness of the Bankruptcy Law and if needed, propose changes to make the personal bankruptcy process more effective. The proposed changes should be consulted with the CBA and the Financial Mediator.  Before changing the personal bankruptcy rules, a system of debt counseling should be developed to help citizens avoid the debt trap. All lenders should ensure the installments are in line with the borrower's income and expenditures (the principle of responsible lending) and should explain the effects of late installment payments, including penalties and sanctions the borrower will face. |
| **SECTION D** | **PRIVACY AND DATA PROTECTION** |
| **Good Practice D.1** | ***Confidentiality and Security of Customers’ Information***   1. **The banking transactions of any bank customer should be kept confidential by his or her bank.** 2. **The law should require a bank to ensure that it protects the confidentiality and security of the personal data of its customers against any anticipated threats or hazards to the security or integrity of such information, as well as against unauthorized access.** |
| **Description** | All key rules for bank secrecy and confidentiality are defined in the Law on Banking Secrecy.  Moreover, Resolution 71-Non Approval of Minimum Requirements for Implementation of Internal Control System of Banks (Article 23) requires that banks must have sufficient information technology policies and processes that address information security and system development. The technology must be commensurate with the size and complexity of operations. |
| **Recommendation** | No recommendation. |
| **Good Practice D.2** | ***Sharing Customer’s Information***   1. **A bank should inform its customer in writing:**     1. **of any third-party dealing for which the bank is obliged to share information regarding any account of the customer, such as any legal enquiry by a credit bureau; and**    2. **as to how it will use and share the customer’s personal information.** 2. **Without the customer’s prior written consent, a bank should not sell or share account or personal information regarding a customer of the bank to or with any party not affiliated with the bank for the purpose of telemarketing or direct mail marketing.** 3. **The law should allow a customer of a bank to stop or ―opt out‖ of the sharing by the bank of certain information regarding the customer and, prior to any such sharing of information for the first time, every bank should be required to inform each of its customers in writing of his or her rights in this respect.** 4. **The law should prohibit the disclosure by a third party of any banking-specific information regarding a customer of a bank.** |
| **Description** | According to the Law on Bank Secrecy, Article 132, provision of information that is considered bank secrecy to the credit bureau by banks and credit organizations shall not be deemed a disclosure of banking secrecy. Therefore, there is no specific legal requirement to inform customers about it. However, as a general rule banks inform customers about information provision to the credit bureau.  At the same when sharing information with third parties under a court decision or judgment, a bank shall be bound to provide, within two working days, information and documentation indicated and required by the court decision or judgment in a closed and sealed envelope to the court or an authorized person thereof.  In the meantime, the bank shall take necessary measures to inform its customers about the bank’s obligations to comply with the court decision, made pursuant to the Code of Civil Procedure of the Republic of Armenia, and provide the confidential information.  The bank is prohibited from informing its customers about the bank’s obligations of complying with the court decision, made pursuant to the Code of Criminal Procedure of the Republic of Armenia, and providing the confidential information.  Banks are prevented from selling or sharing account or personal information regarding a customer of the bank to or with any party not affiliated with the bank for the purpose of telemarketing or direct mail marketing. Facts or any information construing bank secrecy with respect to a certain customer may be subject to publication if such a customer authorizes the bank in writing or publicly announces his agreement to do so (Article 7 of the Law on Banking Secrecy).  Sharing information with third parties without the permission of the customer is considered a violation of the Law on Banking Secrecy. Persons and organizations violating provisions of the Law on Banking Secrecy must fully compensate damages inflicted on the bank customer (Article 18 of the Law).    The Law also prohibits the disclosure of any information about a bank customer to third parties (Article 8). |
| **Recommendation** | No recommendation. |
| **Good Practice D.3** | ***Permitted Disclosures***  **The law should provide for:**   * 1. **the specific rules and procedures concerning the release to any government authority of the records of any customer of a bank;**   2. **rules on what the government authority may and may not do with any such records;**   3. **the exceptions, if any, that apply to these rules and procedures; and**   4. **the penalties for the bank and any government authority for any breach of these rules and procedures.** |
| **Description** | The Law on Bank Secrecy defines specific rules and procedures concerning the release of customer information to Criminal Prosecution Authorities (Article 10): Banks shall provide, by this Law, the criminal prosecution authorities with confidential information concerning accused and suspected persons only in case of court decision, made pursuant to this Law and the Code of Criminal Procedures of the Republic of Armenia.  A bank, upon receipt of the court decision, is bound to provide, within two working days, information and documentation indicated and required by the court decision in a closed and sealed envelope to the criminal prosecution authorities or an authorized person thereof.  The bank is prohibited from informing its customers about the fact that it was required by the criminal prosecution authorities to provide them confidential information.  Disclosure to court (Article 11): Banks shall disclose and provide by this Law information construing bank secrecy on their customers as a party of civil and criminal action based exclusively on a court decision made pursuant to the Code of Civil Procedure or the Code of Criminal Procedure of the Republic of Armenia, as well as on a final judgment of court effected for seizure of customer bank accounts (point 1). Upon receipt of the court decision or judgment of court, a bank shall be bound to provide, within two working days, information and documentation indicated and required by the court decision or judgment of court in a closed and sealed envelope to the court or an authorized person thereof (point 2).  Unlike criminal cases, the bank shall take necessary measures to inform its customers about the bank’s obligations of obtaining the court decision or judgment, made pursuant to the Code of Civil Procedure of the Republic of Armenia, and providing the confidential information.  Disclosure to Tax Authorities (Article 13): Banks shall submit confidential bank information on their customers to the Tax Authorities of the Republic of Armenia only on the ground of a court decision taken under the Code of Civil Procedure or Code of Criminal Procedure of the Republic of Armenia as well as on a final judgment of court effected for seizure of customer bank accounts.  According to the Law on Banking secrecy (Article 9) the parties or organizations, except for banks, which have been entrusted or acquainted with information construing bank secrecy in connection with their service, shall have no right to provide such information. The Central Bank shall have no right to provide state bodies, officials, citizens or any other parties with information considered a banking secrecy on customers disclosed to it in connection with bank supervision.  Article 8 point 4 defines that a bank may disclose banking secrecy related to the customer at the court, provided it is necessary for protecting rights and lawful interests, if the dispute has arisen between the bank and the relevant customer. In such a case, the court proceeding, solicited by either the bank or the customer, may be held behind closed doors to avoid disclosure of the banking secrecy information.  There are no other specific exceptions in the Armenian law.  Article 18 of the Law on Banking secrecy defines that persons and organizations violating provisions of Articles of this law shall fully compensate damages inflicted to the bank customer. Such violations may also lead to a fine from two thousand up to ten thousand times the minimum salary as well as criminal liability. Collection of fine shall be enforced by court. |
| **Recommendation** | No recommendation. |
| **Good Practice D.4** | ***Credit Reporting***   1. **Credit reporting should be subject to appropriate oversight, with sufficient enforcement authority.** 2. **The credit reporting system should have accurate, timely and sufficient data. The system should also maintain rigorous standards of security and reliability.** 3. **The overall legal and regulatory framework for the credit reporting system should be: (i) clear, predictable, non-discriminatory, proportionate and supportive of consumer rights; and (ii) supported by effective judicial or extrajudicial dispute resolution mechanisms.** 4. **In facilitating cross-border transfer of credit data, the credit reporting system should provide appropriate levels of protection.** 5. **Proportionate and supportive consumer rights should include the right of the consumer** 6. **to consent to information-sharing based upon the knowledge of the institution’s information-sharing practices;** 7. **to access his or her credit report free of charge (at least once a year), subject to proper identification;** 8. **to know about adverse action in credit decisions or less-than-optimal conditions/prices due to credit report information;** 9. **to be informed about all inquiries within a period of time, such as six months;** 10. **to correct factually incorrect information or to have it deleted and to mark (flag) information that is in dispute;** 11. **to reasonable retention periods of credit history, for instance two years for positive information and 5-7 years for negative information; and** 12. **to have information kept confidential and with sufficient security measures in place to prevent unauthorized access, misuse of data, or loss or destruction of data.** 13. **The credit registries, regulators and associations of banks should undertake campaigns to inform and educate the public on the rights of consumers in the above respects, as well as the consequences of a negative personal credit history.** |
| **Description** | According to the Law on Circulation of Credit Information and Activities of Credit Bureaus (Article 5), a company interested in carrying out credit bureau activities must obtain a license as defined in this law and the Central Bank normative acts. The Central Bank of Armenia is the relevant licensing authority.  Banks are required to inform customers about the importance of credit history and its negative consequences before signing a consumer credit contract (Regulation 8/05, Chapter 4).  The Law on Circulation of Credit Information and Activities of Credit Bureaus (Article 12 point 5) defines that the data provided to credit bureaus shall be accurate and comprehensive.  A credit bureau needs consumer's consent for information-sharing, except for the following two cases set by the Law on Circulation of Credit Information and Activities of Credit Bureaus (Article 17):   * consent to share credit information is not required if services provided based on the processing of data available in credit bureau (including provision of additional services for historical, statistical, informational, scientific and other purposes) do not disclose specific data of the individual and do not identify him, and it is not deemed as disclosure of personal, banking, trade or other secret defined by this and other applicable laws * consent of the individual is not required for providing information on digital risk scoring of the credit information subject developed by the credit bureau, in cases of providing information to the central bank in accordance with the procedure established by the Law On Combating Money Laundering and Terrorism Financing, as well as in case of provision of credit reports pursuant to court decision and provisions of the Republic of Armenia civil litigation procedures.   Where based on information provided in the credit reports, the receiver refuses to render services, or sign working or civil agreement, or creates other unfavorable conditions for the subject of credit information, the receiver shall inform the subject of credit information about the credit report which served as a basis for such conditions.  As defined by the Law [on Circulation of Credit Information and Activities of Credit Bureaus](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/CreditActivities/2_-Law%20on%20Credit%20Bureaus.pdf) (Article 18 point 3), credit information subject has the right to receive information about him/her on a fee free basis at least once in 12 months.  There are no specific requirements to inform the consumer about adverse action in credit decisions or less-than-optimal conditions/prices due to credit report information. However, the impact of negative credit information is usually discussed with bankers when a consumer signs the consumer credit contract and bank materials also inform consumers about the potential impact of negative information in the credit registry.  As stipulated by the Article 19 of the Law [on Circulation of Credit Information and Activities of Credit Bureaus](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/CreditActivities/2_-Law%20on%20Credit%20Bureaus.pdf), customers may receive names of other persons who made inquiries about them during the last year.  The same Article 19 also gives the customer a right to appeal against information existing in the credit bureau, and require that the information is corrected and supplemented.    From the date of receiving the advice about incorrect or inconsistent credit information, the credit bureau shall input in the database and credit report words “data is disputed” (Article 20 point 8).  Credit bureau may not delete words “data is disputed” from the database or credit reports unless the subject of credit information provides his consent. If the credit information subject does not consent, credit bureau may not delete words “data is disputed” from the database or credit reports without a court decision (Article 20).  Credit information and other data (including data in electronic form) shall be stored by credit bureau in accordance with terms and conditions defined by the law and other legal acts, but not less than for 3 years after the end of period for their incorporation in credit report (Article 25).  The Law [on Circulation of Credit Information and Activities of Credit Bureaus](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/CreditActivities/2_-Law%20on%20Credit%20Bureaus.pdf) (Article 13) defines requirements concerning the confidentiality of information collected by the bureau. |
| **Recommendation** | The impact of negative credit information should be included as a part of the Key Facts Statement for consumer credit, credit cards and mortgages. Consumers should also be clearly informed when information about late payment is provided to the credit bureau, about their right to request a free copy of the credit report once a year and about a possibility to dispute the records. |
| **SECTION E** | **DISPUTE RESOLUTION MECHANISMS** |
| **Good Practice E.1** | **Internal Complaints Procedure**   1. **Every bank should have in place a written complaints procedure and a designated contact point for the proper handling of any complaint from a customer, with a summary of this procedure forming part of the bank’s Terms and Conditions referred to in B.7 above and an indication in the same Terms and Conditions of how a consumer can easily obtain the complete statement of the procedure.** 2. **Within a short period of time following the date a bank receives a complaint, it should:**     1. **acknowledge in writing to the customer/complainant the fact of its receipt of the complaint; and**    2. **provide the complainant with the name of one or more individuals appointed by the bank to deal with the complaint until either the complaint is resolved or cannot be processed further within the bank.** 3. **The bank should provide the complainant with a regular written update on the progress of the investigation of the complaint at reasonable intervals of time.** 4. **Within a few business days of its completion of the investigation of the complaint, the bank should inform the customer/complainant in writing of the outcome of the investigation and, where applicable, explain the terms of any offer or settlement being made to the customer/complainant.** 5. **When a bank receives a verbal complaint, it should offer the customer/complainant the opportunity to have the complaint treated by the bank as a written complaint in accordance with the above. A bank should not require, however, that a complaint be in writing.** 6. **A bank should maintain an up-to-date record of all complaints it has received and the action it has taken in dealing with them.** 7. **The record should contain the details of the complainant, the nature of the complaint, a copy of the bank's response(s), a copy of all other relevant correspondence or records, the action taken to resolve the complaint and whether resolution was achieved and, if so, on what basis.** 8. **The bank should make these records available for review by the banking supervisor or regulator when requested.** |
| **Description** | Banks should have in place a written complaints procedure and a designated contact point for the proper handling of any complaint from a customer, with a summary of this procedure forming part of the bank’s Terms and Conditions. These requirements are stated in [Law on Financial](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/CreditActivities/Consumer_credit_law.pdf) System Mediator and in the Regulation 8/04.  After a complaint is lodged with the bank, the customer should receive a written response within 10 days. The bank should provide the customer with the name and address of an individual appointed by the bank to deal with the complaint until either the complaint is resolved or cannot be processed further within the bank. There is an obligation to explain in simple terms the nature of any offer or settlement being made to the complainant. These requirements are stated in the Regulation 8/04.  According to the Regulation 8/04, Chapter 4, the bank is required to provide the complainant all information necessary to submit a written complaint.  The Resolution 71-Non Approval of Minimum Requirements for Implementation of Internal Control System of Banks requires banks to have reliable information systems. Information must be reliable, complete and secured from unauthorized access. Interbank information flows and document flows system are used in all levels of management for implementing various banking functions and for implementing monitoring including risk management.  However, banks are not required to report the number, nature and results of complaints received. |
| **Recommendation** | The CBA should update the Regulation 8/04 so that internal complaints resolution procedures include the following features:   * all complaints must be formally recorded in a single complaint-handling system whatever method they were lodged – in writing, personally in branches, through a call center or via email      * the banks' websites and branches should make information on how to lodge complaints easily available, including providing all contacts      * all actions, communication and documents related to a complaint must be recorded in the complaint-handling system * all complaints should be acknowledged in writing or via email within three working days of receipt and the receipt should include direct contacts (name, position, telephone and email) of the person dealing with the complaint * the answer to the customer must contain advice on what are the next steps the consumer may take if he is not satisfied with how the complaint was dealt with by the bank, including a contact for the Financial System Mediator * received complaints should be analyzed and the board of directors should be provided with an analytical report twice a year, with recommendations on how the bank's products and processes could be updated to limit the number of received complaints * the analytical report should also be provided to the CBA and the CBA should use the reports to consider amendments to legislation or CBA's regulations   The CBA should include monitoring of complaints handling into its regular onsite visits of banks. |
| **Good Practice E.2** | ***Formal Dispute Settlement Mechanisms***   1. **A system should be in place that allows customers of a bank to seek affordable and efficient recourse to a third-party banking ombudsman or equivalent institution, in the event the complaint of one or more of customers is not resolved in accordance with the procedures outlined in E.1 above.** 2. **The existence of the banking ombudsman or equivalent institution and basic information relating to the process and procedures should be made known in every bank’s Terms and Conditions referred to in B.7 above.** 3. **Upon the request of any customer of a bank, the bank should make available to the customer the details of the banking ombudsman or equivalent institution, and its applicable processes and procedures, including the binding nature of decisions and the mechanisms to ensure the enforcement of decisions.** 4. **The banking ombudsman or equivalent institution should be appropriately resourced and discharge its function impartially.** 5. **The decision of the banking ombudsman or equivalent institution should be binding upon the bank against which the complaint has been lodged.** |
| **Description** | In 2008 the Law On Financial System Mediator was adopted and the institute of financial ombudsman was created to ensure quick, efficient and fee-free examination of customers’ complaints.  According to the Regulation 8/05 banks are required to ensure at least the following information is included in deposit and consumer credit agreements with clients:   1. Note that the Client has an opportunity to file claims arising from transactions with the bank with the Financial System Mediator. In cases when the bank has not signed an agreement to waive its right to appeal against Financial System Mediator's decisions, this information shall be disclosed, pursuant to regulations approved by the CBA. 2. Explanatory note on dispute settlement must be attached to any financial product agreement, pursuant to regulations approved by the Central Bank of the Republic of Armenia.   According to Regulation 8/04, Chapter 5, banks are required to inform their customers about their right to approach the ombudsman or court if the customer is not satisfied with the solution of a complaint, including providing contact information.  While implementing his professional activities, the ombudsman is vested with autonomy and freed from reporting to anyone.  When a complaint is received by the Mediator, the bank is contacted with a request for information and background documents. After the Mediator considers the case, both parties are informed about a proposal for settling the complaint and invited to come to a mediated agreement. If an agreement cannot be reached, the Mediator issued a decision.  After the decision is made by the Mediator, the customer must inform the Mediator about his consent with the decision within 30 days. If he does so, the decision becomes binding for both parties. Parties may appeal against Financial System Mediator's binding decision by addressing a court with an appeal on invalidating it. While the consumer is free to appeal to a court whenever he sees fit and the court is required to consider the merit of the case, the financial institution may appeal only for specifically defined procedural reasons. |
| **Recommendation** | The institutional capability of the Financial System Mediator should be properly supported to allow the Mediator to deal with cases from all areas of financial services adequately and quickly.  Not only complaints from private individuals but also complaints from sole entrepreneurs, micro- and small-size businesses (as defined by the Armenian legislation) should be eligible for consideration by the Financial System Mediator.  When a case is under review by the Financial System Mediator, court review should be delayed until the ombudsman has completed its review of the case. If the case is settled in the mediation phase or a decision is issued by the Mediator, the merits of the case should not be eligible for court review. |
| **Good Practice E.3** | ***Publication of Information on Consumer Complaints***   1. **Statistics and data of customer complaints, including those related to a breach of any code of conduct of the banking industry should be periodically compiled and published by the ombudsman, financial supervisory authority or consumer protection agency.** 2. **Regulatory agencies should publish statistics and data and analyses related to their activities in respect of consumer protection regarding banking products and services so as, among other things, to reduce the sources of systemic consumer complaints and disputes.** 3. **Banking industry associations should also analyze the complaint statistics and data and propose measures to avoid the recurrence of systemic consumer complaints.** |
| **Description** | According to the Article 31 of the Law on Financial System Mediator, the ombudsman shall at least once in a year publish a report, which will include:   1. information about general activities of the Financial System Mediator office (management structure, total number of claims); 2. number of rejected and honored claims per each organization; 3. list of organizations, which did not cooperate with the Financial System Ombudsman; 4. information about the Financial System Mediator office incomes and expenditures; 5. other information as prescribed by the Board of the Financial System Mediator office.   The Mediator shall consolidate identified precedents and disclose them on a monthly basis, by the 15th day of the next month. The Mediator shall not disclose names of parties of individual cases.  The CBA does not publish statistics or specific analysis related to its activities in the area of consumer protection. Basic information can be found in the CBA's annual report "The Banking System of Armenia: Development, Regulation, and Supervision"). |
| **Recommendation** | All decisions taken by the Financial System Mediator (but not cases when the result was agreed through mediation), CBA enforcement decisions and decisions of the Stock Exchange as a self-regulatory organization should be published to provide full regulatory disclosure. The decisions should also be listed in the disciplinary history within the register of licensed entities, managed by the CBA.  The UBA should regularly discuss with member banks the most frequent complaints the banks receive and analyze whether the Code of Banking Ethics or regulatory environment should be updated. The Union should also publicize the effects of the Code on the treatment of consumers to improve the trust of people in the banking sector.  The CBA should analyze not only complaints it receives directly but also complaints received by the Financial System Mediator and by the banks (using the regular complaints analysis report as proposed in E.1). The results of the analysis should be published by the CBA and actions to remedy the most frequent complaints should be proposed to the CBA Board. |
| **SECTION F** | **GUARANTEE SCHEMES AND INSOLVENCY** |
| **Good Practice F.1** | ***Depositor Protection***   1. **The law should ensure that the regulator or supervisor can take necessary measures to protect depositors when a bank is unable to meet its obligations including the return of deposits.** 2. **If there is a law on deposit insurance, it should state clearly:** 3. **the insurer;** 4. **the classes of those depositors who are insured;** 5. **the extent of insurance coverage;** 6. **the holder of all funds for payout purposes;** 7. **the contributor(s) to this fund;** 8. **each event that will trigger a payout from this fund to any class of those insured;** 9. **mechanisms to ensure timely payout to depositors who are insured.** 10. **On an on-going basis, the deposit insurer should directly or through insured banks or the association of insured commercial banks, if any, promote public awareness of the deposit insurance system, as well as how the system works, including its benefits and limitations.** 11. **Public awareness should, among other things, educate the public on the financial instruments and institutions covered by deposit insurance, the coverage and limits of deposit insurance and the reimbursement process.** 12. **The deposit insurer should work closely with member banks and other safety-net participants to ensure consistency in the information provided to consumers and to maximize public awareness on an ongoing basis.** 13. **The deposit insurer should receive or conduct a regular evaluation of the effectiveness of its public awareness program or activities.** |
| **Description** | The Law on Banks and Banking states that the CBA may set tighter prudential standards for а separate bank than for other banks if the expected results of the bank are below the criteria of the CBA, or the financial indicators of the bank have deteriorated, or the bank executes its activities in high risky fields (Article 44). The CBA may also set limits or special rules of procedure for a bank’s lending, deposit taking, financial operations, and certain types of investments for the purpose of restraining the risk factor of the banking activities (Article 41).  Financial instability of a commercial bank is determined by its financial indicators and through on-site supervision. Consumers are not informed about a bank’s instability and the information is publicized only after a decision of the court on the bank’s bankruptcy and appointment of a liquidator). There is a specific law, the Law On Bankruptcy Of Banks, Credit Organizations, Investment Companies And Insurance Companies, that defines rules on winding down a financial institution.  In general, the CBA has all the necessary powers to act against the management of a bank if they do not manage the bank properly.  The Law on Guaranteeing Compensation and Bank Deposits clearly sets all the necessary rules. i.e.:   1. the insurer; 2. the classes of those depositors who are insured; 3. the extent of insurance cover; 4. the holder of all funds for payout purposes; 5. the contributor(s) to this fund; 6. each event that will trigger a payout from this fund to any class of those insured; and 7. mechanisms to ensure timely payout to depositors who are insured.   The limit for deposit insurance is set for (Article 4):   * four million AMD for AMD-denominated deposits * two million AMD for foreign currency deposit   The total maximum payout ceiling is set for four million AMD and the law also provides proper exceptions to the insurance, e.g. deposits by the CEO and his family, deposits of parties with significant interest in the bank and (important to limit risky behavior of a problematic bank) interest on deposits with an interest rate that is at least 1.5 times higher than interest rate on similar bank deposits (Article 2). |
| **Recommendation** | When concluding a deposit contract, the first page of the contract should specifically state whether the deposit is covered by the deposit guarantee insurance and for what amount for the specific consumer, taking into account his other deposits with the bank. Should the contract be not for a specific sum but only providing framework agreement allowing the client to deposit additional money on a later date, the contract should stipulate what would be the maximum insured deposit for the individual client. |
| **Good Practice F.2** | ***Insolvency***   1. **Depositors should enjoy higher priority than other unsecured creditors in the liquidation process of a bank.** 2. **The law dealing with the insolvency of banks should provide for expeditious, cost effective and equitable provisions to enable the maximum timely refund of deposits to depositors.** |
| **Description** | According to the Article 31 of the Law on Bankruptcy of Banks, Credit Organizations and Insurance Companies, bank's liabilities shall be covered from liquidation funds in the following priority order:  First: Necessary and substantiated costs (including salaries) incurred by the administration and/or the Liquidator in execution of powers provided by this Law, within the framework of the estimate approved by the Board of the Central Bank,  Second: Claims on deposits made and loans, borrowings given to the bank, or funds deposited with the bank account after the appointment of administration, except for cases provided by agreement signed between the creditor and the Central Bank.  Third: Bank deposits and account balances of the citizens of the Republic of Armenia, foreign citizens as well as persons without citizenship in Armenian AMD up to 2 million Armenian AMD, and up to 1 million Armenian AMD equivalent amounts in foreign currency in case of deposits (accounts) in foreign currency. In cases when one person possesses more than one deposit (account) in the bank, all the deposits shall be merged and their aggregate amount considered as one deposit.  Fourth: Other liabilities of the bank, except for bank deposits and account balances included in the Third priority order.  Fifth: Bank’s liabilities towards the state and community budgets and other mandatory payments established by the legislation of the Republic of Armenia.  Sixth: Claims of the bank’s participants.  The Law on Bankruptcy of Banks, Credit Organizations and Insurance Companies and the Law on Guaranteeing Compensation and Bank Deposits provide proper procedural guidance and sufficient powers to the authorities to guarantee expeditious, cost effective and equitable solution to a bank's bankruptcy. |
| **Recommendation** | No recommendation. |
| **SECTION G** | **CONSUMER EMPOWERMENT** |
| **Good Practice G.1** | ***Broadly based Financial Capability Program***   1. **A broadly based program of financial education and information should be developed to increase the financial capability of the population.** 2. **A range of organizations, including those of the government, state agencies and non-government organizations, should be involved in developing and implementing the financial capability program.** 3. **The government should appoint an institution such as the central bank or a financial regulator to lead and coordinate the development and implementation of the national financial capability program.** |
| **Description** | It is widely acknowledged that financial literacy and awareness of the population in Armenia is low and needs to be addressed with a series of financial education initiatives.  The Republic of Armenia Government Program 2008 emphasizes its support of the Central Bank’s strategy of rapidly expanding the financial system including the implementation of a financial literacy program aimed at increasing the accessibility of financial programs.  The Central Bank of Armenia Strategy 2012-2014 points out the importance to develop a framework designed to increase consumer protection and financial literacy and awareness levels, in compliance with best international practices. CBA is planning to develop and implement the “National Education Strategy” in 2012, combining and coordinating the efforts of CBA, Ministry of Education and Science (MoES), Pension Awareness Center Foundation and other stakeholders. |
| **Recommendation** | As already initiated by the CBA, a national strategy on financial education should be developed bringing together the financial education programs from across the government sector. The effort should be led by the CBA in collaboration with the MoES including other stakeholder.  The recently set-up Steering Committee for National Strategy of Financial Education should provide recommendations on how to improve financial literacy in various segments of the population in Armenia. The objective is to establish a framework for collaboration of all stakeholders in order to maximize financial literacy efforts, leverage existing resources and avoid duplication of efforts. Meetings should be conducted on a regular basis (at least twice a year) to assess the progress made in implementing the national strategy and streamline financial education initiatives.    Consideration should be given to the establishment of an Armenian Financial Awareness Foundation that would finance key financial education initiatives. If possible, resources of the CBA and the ombudsman should be pooled and the financial industry should be encouraged to contribute to the foundation. The Foundation could also develop a “fund of good ideas” for competitive selection of financial education projects by civil society. |
| **Good Practice G.2** | ***Using a Range of Initiatives and Channels, including the Mass Media***   * 1. **A range of initiatives should be undertaken by the relevant ministry or institution to improve people's financial capability regarding banking products and services.**   2. **The mass media should be encouraged by the relevant ministry or institution to provide financial education, information and guidance to the public regarding banking products and services.**   3. **The government should provide appropriate incentives and encourage collaboration between governmental agencies, banking regulators, the banking industry and consumer associations in the provision of financial education, information and guidance regarding banking products and services.** |
| **Description** | Several financial education programs have been implemented in Armenia with active participation of the CBA, industry associations, financial institutions and NGOs.  According to the law on “The Central Bank of the Republic of Armenia” CBA has the mandate to ensure essential conditions for protection of the rights and lawful interests of the financial system consumers including financial education.  The CBA has a wide range of activities in place to improve financial consumer protection and awareness. For example, the CBA set up a specialized website for financial services consumers (www.abcfinance.am) to provide information to the public, including information on different services provided by financial institutions, events in the field of consumer rights protection and useful links and addresses. The so called ‘Finances for Everyone’ website provides information in six categories (information for students, journalists, pupils, teachers, employees, and entrepreneurs) using simple language. The CBA also developed financial, economic games and financial knowledge assessment tests for its public website. In addition, financial trainings for teachers of mandatory ‘Economics’ school courses are conducted by the CBA.  To address financial education issues related to the MTPL insurance which was adopted in the second quarter of 2010, brochures and booklets and educational informative TV clips were prepared by the CBA.  A number of initiatives have been initiated by the CBA in cooperation with other stakeholders. For example, CBA and “Junior Achievement” NGO have jointly organized an “Economic and Finance” game-competition for senior pupils of schools. A project on financial education for journalists has been initiated in collaboration with USAID.  A Pension reform program “On continuous provision of general and professional knowledge and information concerning the pension system in Armenia” was initiated by the CBA. The objective of the program was to create an institutional system which can give society access to appropriate education and information concerning the pension system. As a result the “Pension System Awareness Center” (PSAC) Foundation was created in 2011, primarily aiming at informing the public on the new multi-pillar pension system including the mandatory funded and voluntary funded components and the offered opportunities by the system. PSAC Foundation also undertakes actions to increase the financial literacy of the population.  Also the Financial Banking College Foundation which was founded in 1998 by CBA, Unions of Banks and the Ministry of Education and Science provides educational trainings and initiatives to consumers such as e.g. the training of unemployed women in rural areas.  As stipulated in the Law on Financial System Mediator, one of the objectives of the Financial System Mediator is to enhance the confidence of the population in the financial sector. According to Art. 34 of the Law on Financial System Mediator, in case the total amount of mandatory contributions of financial institutions exceeds the approved budget of the Financial Mediator, the Board can take a decision to channel the surplus to a Fund used for financial education of consumers. In 2010 a large-scale awareness campaign has been carried out, including the dissemination of informational and promotional materials regarding the activity of the Office of Financial System mediator on TV, radio stations, informational boards placed at metro stations, public transport as well as announcements printed in newspapers and magazines. Furthermore, participation in exhibitions, EXPO events and youth assemblies were used to directly address consumers and inform them about the Financial System Mediator Office. During 2010 a Program for Increasing Consumer Education/Awareness of Financial Services and Products has been developed directed to 5 target groups: high school pupils, students, people using financial services, elderly people and participants of CTP system.  The Financial System Mediator as well as the CBA have set up Hotlines for consumers.  Several non-governmental organizations, professional associations and private sector financial institutions have also implemented financial education initiatives. For example, Junior Achievement NGO organized a voluntary course “Applied  Economics” for 10th grade high school students as well as training of teachers on financial products and services. In addition, its ‘More than Money’ project sponsored by HSBC teaches students aged 7 to 11 years about earning, spending, sharing, and saving money, businesses they can start or jobs they can perform to earn money. In addition, the UBA initiated a one week financial education training for journalists. UBA publishes a variety of brochures on its homepage including on how to take loans and on future planning, savings and investments. With support of USAID, UBA plans to set up an e-library providing banking literature to the public in March 2012.  In 2006, MoES introduced a mandatory course of “Social Sciences” for the 10th grade. ‘Economics’ is one of the four components including fine arts, psychology and philosophy. The majority of teachers of “Social Sciences” therefore lack economic and financial knowledge. In 2011, a new Department for Lifelong Learning was set up in the MoES including the establishment of a Fund providing training for lifelong learning initiatives of non-professionals. |
| **Recommendation** | Current financial education programs in schools should be evaluated. Considerations should be given to a standalone course of Economics and Financial Studies. Another possibility could be to restructure the current curricula by grouping “Economics” with closer related courses. In addition a new textbook on “Economics” should be designed with an updated section on financial services.  Elective programs teaching young children (under the age of 12) about earning, spending, sharing, and saving money should be further enhanced to provide them with basic values such as the importance of financial health.  Training programs for teachers of financial education programs need to be enhanced. The initiatives of CBA and Junior Achievement NGO need to be complemented by targeted regular trainings provided by the National Institute of Education.  It could also be helpful to conduct a survey of teachers and administrators of secondary schools about their need to improve the quality of teaching materials and tools related to financial education.  A Facebook page for a virtual financial advisor could be established by the Armenian Financial Awareness Foundation (see Recommendation G.1). Responses to consumer questions should be provided by financial experts in the CBA, by industry associations and consumer organizations with opportunity for other experts to provide peer review comment.  In addition, training of retail staff of financial institutions needs to be improved. The requirements on education, experience or integrity that the credit officers and points of sale representatives are obliged to satisfy should be formalized and agreed upon within the industry associations in cooperation with the CBA. Additional incentives could be provided by contests among the staff of financial institutions identifying and encouraging the best employee of the financial institutions. |
| **Good Practice G.3** | ***Unbiased Information for Consumers***   1. **Regulators and consumer associations should provide, via the internet and printed publications, independent information on the key features, benefits and risks –and where practicable the costs– of the main types of banking products and services.** 2. **The relevant authority or institution should encourage efforts to enable consumers to better understand the products and services being offered to consumers by banking institutions, such as providing comparative price information and undertaking educational campaigns.** |
| **Description** | The CBA set up a specialized website for financial services consumers (www.abcfinance.am) to provide information to the public, including information on different services provided by financial institutions and their services, events in the field of consumer rights protection and useful links and addresses.  To improve consumer awareness of financial products and services the CBA has also undertaken the following initiatives:   * publishing guides, leaflets and brochures on key financial services: bank accounts, loans, deposits, credit cards, money transfers, insurance, MTPL insurance * school competition programs on financial themes * developing a program of financial education for teachers * educational CDs and DVDs for children * informational video clips * hotline where consumers may call with questions and complaints   The Financial System Mediator’s website ([www.fsm.am](http://www.fsm.am)) provides a wide range of information on financial products and services, including booklets and video materials on financial products as well as a compilation of selected claims in the form of precedent. |
| **Recommendation** | Civil society and industry associations should be encouraged to expand their activities in financial education. In the light of streamlining efforts, a common website should be established where consumer and industry associations could upload their education materials for consumers. |
| **Good Practice G.4** | ***Consulting Consumers and the Financial Services Industry***   1. **The relevant authority or institution should consult consumers, banking associations and banking institutions to help them develop financial capability programs that meet banking consumers' needs and expectations.** 2. **The relevant authority or institution should also undertake consumer testing with a view to ensuring that proposed initiatives have their intended outcomes.** |
| **Description** | There is no institutionalized consulting process. However, the planned national financial education strategy should bring all key stakeholders together and improve the coordination of activities.  Before a proposal is made the CBA consults both with financial institutions and industry associations. Consumer associations are not involved in this process.  So far no consumer testing is undertaken by the CBA. |
| **Recommendation** | Consumer non-government organizations should be involved in the process of developing financial capability programs for financial consumers. However the first step is building the institutional strength of consumer organizations. Such institution-building could be accomplished through matching grant programs from the state budget and possibly supplemented by donor funding. It would also be helpful to obtain support from the global consumer organizations, such as Consumers International.  The CBA as consumer protection supervisor should regularly conduct inspections through mystery shopping to test consumer understanding of financial products being sold. The supervisory personnel could pose as customers and in this way verify if they have been provided with all relevant information--and if accurate explanations of risks and rewards for each product are provided. |
| **Good Practice G.5** | ***Measuring the Impact of Financial Capability Initiatives***   1. **The financial capability of consumers should be measured, amongst other things, by broadly-based household surveys and mystery shopping trips that are repeated from time to time.** 2. **The effectiveness of key financial capability initiatives should be evaluated by the relevant authorities or institutions from time to time.** |
| **Description** | In 2008, Economic Development and Research Center was contracted by Emerging Markets Group implementing the USAID/Financial Sector Deepening Project to carry out an Assessment of Public Awareness, Literacy, Confidence, Access and Usage of Financial Services in Armenia.[[3]](#footnote-3)  In 2010 an OECD INFE international survey of financial literacy was conducted by 13 countries including Armenia across 4 continents.[[4]](#footnote-4) The pilot survey focuses on levels of financial knowledge, behavior and attitudes and describes overall levels of financial literacy in each participating country.  Both surveys showed that the levels of trust in financial institutions as well as consumer awareness are low in Armenia.  The World Bank Group plans to conduct a Financial Literacy Survey in 2012. The final report is expected to be published by mid 2012. The household survey will provide country-specific information regarding (a) saving and borrowing behavior of individuals, (b) prevailing levels of understanding of basic financial concepts, (c) awareness of financial consumer rights, (d) patterns of household budget management, and (e) use of financial services. It will provide the Government of Armenia with the information required to design financial education programs that will address the most important needs of different segments of the population. Such a baseline will also be important for allowing the government to be able to assess the effectiveness of certain financial education programs later on and decide which initiatives should be continued and perhaps scaled up and which should be modified or discontinued.  In assistance of the National Educational Institute of the Education and Science Ministry the CBA developed a guideline “On the assessment methodology of financial and economic educational programs”. The guideline includes tools, steps and procedures through which the assessment should be carried out.  An efficiency analysis of the CBA website has been initiated by the CBA with the aim to improve user friendliness. |
| **Recommendation** | The World Bank Financial Literacy Survey should be repeated from time to time (every 3-5 years) in order to measure the status of financial capability of consumers as well as the impact of financial literacy initiatives. The information should be used to further evaluate the effectiveness of financial education programs and consumer protection initiatives and revise them if needed. |
| **SECTION H** | **COMPETITION AND CONSUMER PROTECTION** |
| **Good Practice H.1** | ***Regulatory Policy and Competition Policy***  **Regulators and competition authorities should be required to consult one another for the purpose of ensuring the establishment, application and enforcement of consistent policies regarding the regulation of financial services.** |
| **Description** | The Central Bank of Armenia and the State Commission for the Protection of Economic Competition have signed a cooperation MOU that should improve their cooperation and coordination.  In 2010, a Competition Division was founded within the Supervision Department of the CBA and the CBA recently adopted a Concept paper on competition regulation in financial services market. |
| **Recommendation** | Cooperation between the CBA and the State Commission for the Protection of Economic Competition should be improved and the institutional capability of the CBA to regularly evaluate the level of competition for various types of financial products should be supported.  Consumer complaints received by the CBA and the Financial System Mediator should also be analyzed from the competition point of view to ensure there are no breaches of competition rules. |
| **Good Practice H.2** | ***Review of Competition***  **Given the significance of retail banking to the economy as a whole and to the welfare of consumers, competition authorities should:**   1. **monitor competition in retail banking;** 2. **conduct, and publish for general consumption, periodic assessments of competition in retail banking (such as the range of interest rates across banks for specific products); and** 3. **make recommendations publicly available on enhancing competition in retail banking.** |
| **Description** | The Law on Competition allows the Competition Commission to conduct these activities but it has focused its activities on other areas of the market so far. The CBA has established a Competition Division in 2010 to address the competition policy in the financial sector by itself. |
| **Recommendation** | The CBA should define key financial products in the Armenian market and regularly (monthly for deposit interest rates and credit APR, prices for bank accounts, prices of ATM withdrawals, etc.; quarterly for insurance rates) collect price information from all providers and analyze it.  The information should be published on a publicly accessible and actively promoted website and used to monitor the level of competition. Should the rates converge, the CBA should consider a more detailed competition analysis and an investigation. |
| **Good Practice H.3** | ***Impact of Competition Policy on Consumer Protection***  **The competition authority and the regulator should evaluate the impact of competition policies on consumer welfare, especially regarding any limitations on customer choice and collusion regarding interest and other charges and fees.** |
| **Description** | There are currently no activities to this effect. |
| **Recommendation** | Besides collecting and evaluating data on existing products as described in H.2, the CBA should actively consider competition issues before new markets are opened. Especially with the upcoming pension reform, the CBA should closely analyze planned fees of the pension funds for any signs of collusion. |

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# Consumer Protection in the Securities Sector

### Overview

**The equity market in Armenia has suffered considerably from the 2008 crisis.** The market had been developing before the crash but has stayed flat since then. As can be seen from Table 4 there has been little if any increase in the activity of the market since 2008. This has also been reflected in the low number of listings on the NASDAQ OMX Armenia exchange.The largest number of listings is in the free market, but as of 2011 even these are quite limited in number.

*Table 4: Stock market capitalization as % of GDP*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Year** | **2007** | **2008** | **2009** | **2010** | **2011** |
| **Capitalization**  **In AMD mln.** | 32,089.9 | 53,991.1 | 53,097.2 | 52,620.7 | 53,847.2 |
| **% of GDP** | 1.1 | 1.5 | 1.6 | 1.5 | N/A |

*Source: NASDAQ OMX Armenia*

**There is also a lack of institutional investors in Armenia.** There are no mutual funds or Pillar III pension funds, even though the legal mechanism for their creation has been in existence for several years. As a result, there is little demand for financial products and thus little incentive to create such products through IPOs.

**The government has created a Pillar II pension program that is to be implemented in January of 2014.** The financial industry is placing a great deal of hope that the increase in demand resulting from the development of the Pillar II pension funds will encourage more companies to use the financial markets for raising their capital and thus significantly increase the activity of the securities markets and the financial capital markets in general.

**Armenia has created a comprehensive licensing program for legal and natural persons acting in the securities sector.** The total number of entities registered as investment service providers has almost doubled between 2007 and 2011. Banks make up the largest number of investment service providers (Table 5). The sales staff of investment service providers must be qualified by the CBA to perform their activity. Although there is a requirement for qualification of managers of asset managers for investment funds, there are no requirements for sales persons directly employed by the asset managers of investment funds (Table 6).

*Table 5: Total Number of Entities Registered to Act as Investment Service Providers*

|  |  |  |  |
| --- | --- | --- | --- |
| **Year** | **Investment Service Provider** | **Bank** | **Total** |
| **2007** | 13 | 2 | 15 |
| **2008** | 10 | 22 | 32 |
| **2009** | 8 | 22 | 30 |
| **2010** | 8 | 21 | 29 |
| **2011** | 8 | 21 | 29 |

*Source: CBA as of December 31, 2011*

Table 6: Licensing by the CBA of Natural Persons Providing Investment Services 2011

|  |  |
| --- | --- |
| **Qualification (license) type of natural persons providing investment services** | **Number** |
| **Securities portfolio managers** | 3 |
| **Custodians** | 23 |
| **Internal Audit managers and members of Investment companies** | 14 |
| **Brokers** | 13 |
| **Dealers** | 25 |
| **Securities distributors** | 5 |
| **Advisers** | 5 |
| **Total** | 88 |

*Source: CBA, as of December 31, 2011*

**LSM Article 209 provides for the authority of the CBA to bring regulatory actions for breaches of the law and regulations.** The Legal Department of the CBA acts as the enforcement unit of the CBA. The investigative activity of the CBA basically involves the inspection and examination of entities that have obtained a license from the CBA to act in the securities markets (Table 7). If a violation is found, the matter is referred to the Legal Department to initiate proceedings for sanctions. At this stage of market development, this has proven to be an adequate enforcement mechanism. However, as the market develops, this enforcement model will be less effective since many of the actors and possible securities law violators will not be licensed by the Bank. As can be seen from the following chart, the CBA has been active in enforcing the securities laws.

*Table 7: Number of Violations of Securities Laws (Registered Entities)\**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Subject Matter** | **2008** | **2009** | **2010** | **2011** |
| **Prudential** | 4 | 4 | 3 | 2 |
| **Business Conduct** |  | 6 | 16 | 11 |
| **Reports (Accounting)** | 10 | 26 | 15 | 7 |
| **ML/ATF** |  | 4 | 1 | 11 |
| **Corporate Governance** | 1 | 7 | 25 | 6 |
| **Other violations** | 8 | 37 | 69 | 12 |
| **Total** | 23 | 84 | 129 | 49 |
| **Enforcement Actions** |  |  |  |  |
| **Warning with instructions** | 22 | 79 | 126 | 48 |
| **Fines** | 1  (100,000 AMD) | 5  (650,000 AMD) | 3  (200,000 AMD) | 1  (50,000 AMD) |

*Source: CBA as of December 31, 2011* \* No actions were taken against natural persons

**The Law on Financial System Mediator (Ombudsman) provides for an ombudsman for investor complaints against securities markets institutions. The Ombudsman is impartial and independent.** The decisions are binding but appealable and the mechanisms for enforcement are the same as for any judgment. Although the vast majority of the complaints and resolutions handled by the Ombudsman relate to other parts of the financial sector, it has brought a few cases related to securities (Table 8). The very low number of cases is not surprising in light of the low level of activity in the securities markets.

*Table 8: Securities Law Related Complaints to Ombudsman (Financial System Mediator)*

|  |  |  |  |
| --- | --- | --- | --- |
| **Claims** | **2009** | **2010** | **2011** |
| **Claims against ICs** | **1** | **2** | **0** |
| **ICs complaints reviewed\*** | **0** | **0** | **0** |
| **Claims against depository** | **1** | **0** | **0** |
| **Depository Claims Reviewed\*** | **0** | **0** | **0** |
| **Claims resolved in favor of consumer** | **0** | **0** | **0** |

*Source: Financial System Mediator Quarterly and Annual Reports as of 4th Quarter 2011*  ***\*****The ombudsman can decline to review a complaint due to lack of sufficient information and documentation.*

**The future development of the capital markets in Armenia will depend in a large part on the development of a significant institutional investor base.** Recognizing this, the Armenian Parliament passed a new Law on Investment Funds (LIF) to provide for the regulatory framework for the development of the fund industry in Armenia. The LIF goes a long way to providing a comprehensive framework, but investor protection provisions in the LIF need to be strengthened, such as adding civil liability provisions which would allow an investor to seek civil remedies from an asset manager or custodian for failing to act in the best interests of the investor. In addition, the LIF should require that sales people of asset managers be examined and licensed by the CBA to ensure their competence in recommending and explaining investment funds. Finally, the LIF needs to be amended to provide for the segregation of the assets of the investment funds from the assets of the custodian and the custodian’s other clients.

### Comparison with Good Practices for the Securities Sector

|  |  |
| --- | --- |
| **SECTION A** | **INVESTOR PROTECTION INSTITUTIONS** |
| **Good Practice A.1** | ***Consumer Protection Regime***  **The law should provide for clear rules on investor protection in the area of securities markets products and services, and there should be adequate institutional arrangements for the implementation and enforcement of investor protection rules.**   * 1. **There should be specific legal provisions which create an effective regime for the protection of investors in securities.**   2. **There should be a governmental agency responsible for data collection and analysis (including complaints, disputes and inquiries) and for the oversight and enforcement of investor protection laws and regulations.** |
| **Description** | a. The Republic of Armenia has enacted specific legal provisions that create an effective regime for investor protection. The Law of the Republic of Armenia on Securities Market (LSM) Article 1 point 1 specifically provides for the creation of the regime for investor protection. The Law on Investment Funds of the Republic of Armenia (LIF) creates a regulatory regime for the establishment of investment funds and the Law on the Financial System Mediator (LFSM) provides for the creation of an ombudsman to resolve investment disputes.  b. The Law on the Central Bank of the Republic of Armenia (Law on CBA) Article 5 point 1 sub-points e and f establish the Central Bank of Armenia (CBA) as the governmental agency responsible for investor protection and the CBA has created internal units to carry out that function. |
| **Recommendation** | No Recommendation |
| **Good Practice A.2** | ***Code of Conduct for Securities Intermediaries, Investment Advisers and Collective Investment Undertakings***   1. **Securities intermediaries, investment advisers and CIUs should have a voluntary code of conduct.** 2. **If such a code of conduct exists, securities intermediaries, investment advisers and CIUs should publicize the code to the general public through appropriate means.** 3. **Securities Intermediaries, Investment Advisers and CIUs should comply with the code and an appropriate mechanism should be in place to provide incentives to comply with the code.** |
| **Description** | a. Due to the low activity and developing character of the securities market, there is no association of securities market participants at this time and no code of conduct has been established for investment service providers or investment funds. The UBA has issued a code of conduct for banks which contains several provisions, Sections 108-113 as to how banks should deal with their securities customers and the provision of investment services. Other sections also relate to how banks deal with their customers, such as the complaint procedures set out in Section 124. Nonetheless, the banking code does not constitute a comprehensive code of conduct for the securities sector. NASDAQ OMX also has trading rules for entities which are authorized to trade on the exchange that is mandatory for those entities. However, NASDAQ’s trading rules do not constitute a comprehensive code of conduct.  b. Not applicable  c. Not applicable |
| **Recommendation** | When the market develops to the point where associations of investment service providers and asset managers are financially feasible, they should promulgate codes of conduct for their members. |
| **Good Practice A.3** | ***Other Institutional Arrangements***   1. **The judicial system should provide an efficient and trusted venue for the enforcement of laws and regulations on investor protection.** 2. **The media should play an active role in promoting investor protection.** 3. **The private sector, including voluntary investor protection organizations, industry associations and, where permitted, self-regulatory organizations should play an active role in promoting investor protection.** |
| **Description** | a. The courts are used to settle investment disputes and as an appeal mechanism for decisions of the CBA. However, many commentators have pointed to the long delay in the completion of legal proceedings as a reason that the Financial Mediator has been able to play such an important role in investment disputes.  b. The financial media in regards to the securities sector is not very active due to the inactive nature of the current securities market.  c. Due to the small size of the market, there are no private investor protection organizations or industry associations in the securities sector. The NASDAQ acts as an SRO for its members in protecting investors through the enforcement of its exchange rules and limited investor education. |
| **Recommendation** | The development of an industry association for securities markets participants is extremely important of the advocacy of the industry and investor protection. As the market develops over the next few years, the CBA should encourage the development of such an association. |
| **Good Practice A.4** | ***Licensing***   1. **All legal entities or physical persons that, for the purpose of investment in financial instruments, solicit funds from the public should be obliged to obtain a license from the supervisory authority.** 2. **Legal entities or physical persons that give investment advice and hold customer assets should be licensed by the securities supervisory authority.** 3. **If a jurisdiction does not require licensing for legal entities or physical persons that give only investment advice, such persons should be supervised by an industry association or self-regulatory organization and the anti-fraud provisions of the securities laws or other consumer laws should apply to the activity of such persons.** |
| **Description** | a. All legal persons are required to be licensed under LSM Article 33 and CBA Regulation 4/01. Banks that provide investment services are required to notify the CBA of their intention to act as a service provider, although they are automatically granted the right to engage in such activity as a result of their banking license under LSM Article 35. Physical persons are required to be licensed under LSM Article 50 and the procedure for doing so is set out in CBA Regulation 4/05. CIUs are required to be licensed under LIF Article 4 point 1 and Article 21. The procedures for registration are set out in Regulation 10/01 for domestic funds and 10/11 for foreign funds. LIF Articles 53, 54 and 65 set out the requirements of directors and fund managers to be licensed. The mechanism for fund managers to be licensed in set out in CBA Regulation 10/05.  b. The regulatory system in Armenia does not create a separate licensing category for investment advisers. Licensed investment service providers can perform a wide range of securities related activity, including giving investment advice.  c. All legal entities or natural persons giving investment advice must be licensed as an investment service provider. |
| **Recommendation** | No recommendation |
| **SECTION B** | **DISCLOSURE AND SALES PRACTICES** |
| **Good Practice B.1** | ***General Practices***  **There should be disclosure principles that cover an investor’s relationship with a person offering to buy or sell securities, buying or selling securities, or providing investment advice, in all three stages of such relationship: pre-sale, point of sale, and post-sale.**   1. **The information available and provided to an investor should inform the investor of:**    1. **the choice of accounts, products and services;**    2. **the characteristics of each type of account, product or service;**    3. **the risks and consequences of purchasing each type of account, product or service;**    4. **the risks and consequences of using leverage, often called margin, in purchasing or selling securities or other financial products; and**    5. **the specific risks of investing in derivative products, such as options and futures.** 2. **A securities intermediary, investment adviser or CIU should be legally responsible for all statements made in marketing and sales materials related to its products.** 3. **A natural or legal person acting as the representative or tied-agent of a securities intermediary, investment adviser or CIU should disclose to an investor whether the person is licensed to act as such a representative and who licenses the person.** 4. **If a securities intermediary, investment adviser or CIU delegates or outsources any of its functions or activities to another legal entity or physical person, such delegation or outsourcing should be fully disclosed to the investor, including whether the person to whom such function or activity is delegated is licensed to act in such capacity and who licenses the person.** |
| **Description** | LSM Article 65 provides for the general obligation of an investment service provider to provide information to customers upon request. CBA Regulation 4/07 provides for the specific information that the investment service provider must give to the customer pre-sale, point of sale and post-sale. CBA Regulation 8/03 point 55 also provides for the disclosure of information to the customer.  a. CBA Regulation 4/07 provides for all of these:  (i) point 11, sub-point 1  (ii) point 11, sub-point 1  (iii)point 6  (iv) not applicable, currently there is no margin in securities transactions in Armenia  (v) not applicable, currently there are no derivatives products in Armenia  b. LSM Article 209 provides for the authority of the CBA to bring regulatory actions for breaches of the law and regulations. Article 215 provides for civil liability for any person misrepresenting or distorting any material fact in any document or any provision therein filed pursuant to the LSM.  c. There is no specific provision that requires a sales person to disclose his or her licensing status.  d. LIF Article 70 point 10 provides that the investment fund prospectus can define which functions of the manager can be delegated but does not require a disclosure of the identity of the delegee entity to the client. There is no specific provision that requires an investment service provider to disclose the regulation status of entities to which it has delegated some of its responsibilities. |
| **Recommendation** | The civil liabilities section of the LSM needs to be broadened to include oral misrepresentations, in addition to written misrepresentations. In addition, it needs to include the failure to provide to a customer the information required by the LSM and relevant regulations.  The disclosure of the licensing status of sales people and institutions receiving delegated duties is also needed in the regulations in order to give a prospective customer a clear idea of whom they will be dealing with. |
| **Good Practice B.2** | ***Terms and Conditions***   1. **Before commencing a relationship with an investor, a securities intermediary, investment adviser or CIU should provide the investor with a copy of its general terms and conditions, as well as any terms and conditions that apply to the particular account.** 2. **The terms and conditions should always be in a font size and spacing that facilitates easy reading.** 3. **The terms and conditions should disclose:** 4. **details of the general charges;** 5. **the complaints procedure;** 6. **information about any compensation scheme that the securities intermediary or CIU is a member of, and an outline of the action and remedies which the investor may take in the event of default by the securities intermediary or CIU;** 7. **the methods of computing interest rates paid or charged;** 8. **any relevant non-interest charges or fees related to the product;** 9. **any service charges;** 10. **the details of the terms of any leverage or margin being offered to the client and how the leverage functions;** 11. **any restrictions on account transfers; and** 12. **the procedures for closing an account.** |
| **Description** | a. LSM Article 64 provides that an investment services provider shall provide an investor with the contract containing all of its terms and conditions.  b. CBA Regulation 8/03 point 4 sub-point 5 provides that the font size should be in readable form.  c. CBA Regulations provide for the disclosure of these terms and conditions:  (i) CBA Regulation 8/03 point 55 sub-point 6; CBA Regulation 4/07 point 11  (ii)CBA Regulation 8/03 point 30 provides that the complaints procedure should be placed on the investment service provider’s website.  (iii) there is no securities guarantee fund or compensation scheme in Armenia  (iv) CBA Regulation 8/03 point 55 sub-point 2; CBA Regulation 4/07 point 11  (v) CBA Regulation 8/03 point 55 sub-point 2; CBA Regulation 4/07 point 11  (vi) CBA Regulation 8/03 point 55 sub-point 2; CBA Regulation 4/07 point 11  (vii) Not applicable - the is no securities margin currently in Armenia  (viii) CBA Regulation 8/03 point 55 sub-point 6  (ix) CBA Regulation 8/03 point 55 sub-point 6 |
| **Recommendation** | It does not appear that Regulation 8/03 applies to CIUs. It should be extended and adapted to investment funds asset managers. |
| **Good Practice B.3** | ***Professional Competence***  **Regulators should establish and administer minimum competency requirements for the sales staff of securities intermediaries, investment advisers and CIUs, and collaborate with industry associations where appropriate.** |
| **Description** | The LSM Article 50 requires that sales staff of investment service providers possess certain professional qualifications in order to act for the service providers. CBA Regulation 4/05 provides the procedures for the qualification for such persons.  Although there is a requirement for qualification of managers of asset managers for investment funds, there are no requirements for sales persons directly employed by the asset managers of investment funds. |
| **Recommendation** | If asset managers are permitted to sell mutual fund shares and units directly to the public, then their sales people should follow the same procedures for qualification as provided in CBA Regulation 4/05 for investment service providers. |
| **Good Practice B.4** | ***Know Your Customer (KYC)***  **Before providing a product or service to an investor, a securities intermediary, adviser or CIU should obtain, record and retain sufficient information to enable it to form a professional view of the investor’s background, financial condition, investment experience and attitude toward risk in order to enable it to provide a recommendation, product or service appropriate to that investor.** |
| **Description** | LSM Article 66 point 1 provides that investment service providers should obtain sufficient information about customers which will allow them to evaluate their customer’s experience and investment goals. CBA regulation 4/07 points 27-30 set forth the procedures for obtaining and making such an evaluation.  This provision would apply if an investment service provider sells units in CIUs. However, it would not appear to apply for the direct sales of CIUs by the asset manager. |
| **Recommendation** | CIUs that sell directly to customers should engage in a KYC evaluation of its customers. |
| **Good Practice B.5** | ***Suitability***  **A securities intermediary, investment adviser or CIU should ensure that, taking into account the facts disclosed by the investor and other relevant facts about that investor of which it is aware, any recommendation, product or service offered to the investor is suitable to that investor.** |
| **Description** | LSM Article 66 point 1 sub-point 2 and CBA Regulation 4/07 points 31 and 34 provide that the investment service provider should determine if an investment is suitable for a customer based on the information provided.  This provision would apply if an investment service provider sells units in CIUs. However, it would not appear to apply for the direct sales of CIUs by the asset manager. |
| **Recommendation** | CIUs that sell directly to customers should engage in a suitability evaluation of its customers. |
| **Good Practice B.6** | ***Sales Practices***   1. **Legislation and regulations should contain clear rules on improper sales practices in the solicitation, sale and purchase of securities. Thus, securities intermediaries, investment advisers, CIUs and their sales representatives should:** 2. **Not use high-pressure sales tactics;** 3. **Not engage in misrepresentations and half truths as to products being sold;** 4. **Fully disclose the risks of investing in a financial product being sold;** 5. **Not discount or disparage warnings or cautionary statements in written sales literature;** 6. **Not exclude or restrict, or seek to exclude or restrict, any legal liability or duty of care to an investor, except where permitted by applicable legislation.** 7. **Legislation and regulations should provide sanctions for improper sales practices.** 8. **The securities supervisory agency should have broad powers to investigate fraudulent schemes.** |
| **Description** | a.  (i) There is no provision in the securities laws or regulations related to high pressure sales tactics.  (ii) LSM Article 215 provides that entities that provide false and misleading information in relation to documents for securities are liable for such actions. CBA Regulation 4/07 points 3 and 4 provide that the whole of information (including advertising) given to investors cannot be misleading. CBA Regulation 8/03 point 36 provides that companies don’t have the right to use misleading information in their sales advertisements. LIF Art. 95 point 4 provides that asset managers are prohibited from using false and misleading information in the offer of their funds.  (iii) CBA Regulation 4/07 points 6, 12, 20 and 22 provide that risks in investing be fully disclosed.  (iv) CBA Regulation 4/07point 8 provides that information should not be presented to make it appear to be unimportant or to conceal it.  (v) There is no provision regarding the restriction or exclusion of legal liability.  b. LSM Articles 209-213 provide for sanctions for violation of the securities laws, such as warnings, fines and withdrawal of licenses. LIF Articles 106-110 contain the same provisions  c. Article 39 of the CBA Law gives the CBA broad power to conduct examinations of securities service providers and asset managers of investment funds. However, investigative powers such as obtaining statements from unlicensed persons or other records such as phone records of non-licensed people are not included. |
| **Recommendation** | a. (i) As the market develops, the possibility for unregistered stock operators will increase. They frequently use high pressure sales tactics and the law should provide for rules regarding such activity such as contained in the EU Directive on Long Distance Sales.  c. Similarly, market manipulation, insider trading and other forms of market abuse could also become more likely as the market develops. The investigations of these types of fraud require investigative tools that are more extensive than are currently given to the CBA in the LSM and LIF. Consideration should be given to amending the law to give the CBA these powers. |
| **Good Practice B.7** | ***Advertising and Sales Materials***   1. **All marketing and sales materials should be in plain language and understandable by the average investor.** 2. **Securities intermediaries, investment advisers, CIUs and their sales representatives should ensure their advertising and sales materials and procedures do not mislead the customers.** 3. **Securities intermediaries, investment advisers and CIUs should disclose in all advertising, including print, television and radio, the fact that they are regulated and by whom.** |
| **Description** | a. CBA Regulation 4/07 point 7 and CBA Regulation 8/03 point 4 sub-point 3, and points 38 and 39 all require that advertising and sales material should be understandable to the average investor.  b. CBA Regulation 8/03 point 36 and CBA Regulation 4/07 points 3 and 4 all require that advertising and sales materials should not mislead customers. In addition, LIF Article 95 requires that all investment fund advertising be submitted to the CBA and approved by CBA.  c. CBA Regulation 4/07 point 15 sub-point 4 requires that investment service provides should provide by whom they are licensed and CBA Regulation 4/07 point 11 provides that registration information should be provided before conclusion of contract. There is no specific provision regarding regulation status for CIUs |
| **Recommendation** | CIUs should be required to provide their registration status to prospective investor/customers. |
| **Good Practice B.8** | ***Relationships and Conflicts***   1. **A securities intermediary, investment adviser or CIU should disclose to its clients all relationships that it has which impact on the client’s account, such as banks, custodians, advisers or intermediaries which are used to maintain and manage the account.** 2. **A securities intermediary, investment adviser or CIU should disclose all conflicts of interest that it has with the client and the manner in which the conflict is being managed.** |
| **Description** | a. There is no specific provision that requires an investment services provider or asset manager to disclose all relationships that it has which could impact on a clients’ accounts.  b. LSM Article 63 point 1 sub-points 2 and 3 require investment service providers to avoid conflicts of interest and to provide a mechanism for dealing with conflicts that exist. LIF Article 68 requires that an asset manager avoid conflicts of interest and provide a means of dealing with those that exist. CBA Regulation 8/03 point 55 sub-point 10 requires all investment service entities to provide to clients its policies that are directed to prevent conflicts of interest. Although these provisions require that investment service provider to disclose the mechanism for dealing with conflicts, they do not require a disclosure of the conflicts themselves. There are no specific provisions for CIUs to disclose their conflicts of interest or procedures for handling them. |
| **Recommendation** | The regulations should be modified to require disclosure by investment service providers and CIUs of all entities that can have an impact on an investor’s account and any specific conflicts of interest that exist and how they are being handled. |
| **Good Practice B.9** | ***Specific Disclosures by CIUs***   1. **CIUs should disclose to prospective and existing investors:** 2. **the CIU’s policies with regard to frequent trading and the risks to investors from such policies;** 3. **any inducements that it receives to use particular intermediaries or other financial firms, such as “soft-money” arrangements; and** 4. **a fair and honest description of the performance of the CIU’s investments over several different periods of time that accurately reflect the CIU’s performance.** 5. **In addition, a CIU should provide a Key Facts Statement for each fund that it is offering to the client that succinctly explains the fund in clear language. Such document is in addition to any other disclosure documents required by law.** |
| **Description** | a. These provisions are in the process of being drafted.  (i) These provisions are in the process of being drafted.  (ii) These provisions are in the process of being drafted.  (iii) There is no requirement to provide performance comparisons over time, but if they are done then CBA Regulation 4/07 point 10 provides for the manner in which the performance should be presented.  b. No requirement for key facts statement for investment funds. |
| **Recommendation** | There should be a requirement for asset managers to provide a short key facts statement describing the investment funds that it is offering. |
| **Good Practice B.10** | ***Specific Disclosures by Investment Advisers***   1. **Investment advisers should disclose to prospective and existing clients:** 2. **whether the investment adviser is also registered in another capacity and whether the adviser deals with the client’s account in the second registered capacity; and** 3. **whether the financial instruments that the investment adviser is recommending are held in the adviser’s own inventory or the inventory of a legal or natural person related to the adviser and will be bought from or sold to its own inventory or the inventory of a related party.** 4. **An investment adviser should provide prospective and existing clients with a Key Facts Statement for each product or service that is being offered or sold to the client that succinctly explains the product or service in clear language.** |
| **Description** | Since there is not a separate licensed category of investment advisor, this section is not applicable in Armenia. |
| **Recommendation** | No recommendation |
| **SECTION C** | **CUSTOMER ACCOUNT HANDLING AND MAINTENANCE** |
| **Good Practice C.1** | ***Segregation of Funds***  **Funds of investors should be segregated from the funds of all other market participants.** |
| **Description** | LSM Article 67 and CBA Regulation 4/12 provide for the segregation of investor funds from the investment service provider. LIF Article 69 provides for segregation of investment fund assets from the assets of the asset manager. However, there is no provision for the segregation of investment fund assets from the assets of the custodian of the investment fund. |
| **Recommendation** | The LIF should be amended to provide for the segregation of assets of an investment fund from the assets of the fund’s custodian. |
| **Good Practice C.2** | ***Contract Note***   1. **Investors should receive a detailed contract note from a securities intermediary or CIU confirming and containing the characteristics of each trade executed with them, or on their behalf.** 2. **The contract note should disclose the commission received by the securities intermediary, CIU and their sales representatives, as well as the total expense ratio (expressed as total expenses as a percentage of total assets purchased).** 3. **In addition, the contract note should indicate the trading venue where the transaction took place and whether (i) the intermediary for the transaction acted as a broker in the trade, (ii) the intermediary or CIU acted as the counterparty to its customer in the trade, or (iii) the trade was conducted internally in the intermediary between its clients.** |
| **Description** | a. CBA Regulation 4/07 points 40-42 provide for the details of what is required in the notice to customers of each trade that is made. There is no corresponding provision for the purchase and sale of investment funds.  b. CBA Regulation 4/07 point 41 sub-point 13 provides that the notice shall contain all expenses and fees for the transaction.  c. There is no provision for a dealer sale of a security by an investment service provider to a customer/investor. |
| **Recommendation** | The “mark-up” in a dealer should be shown on the notice of transaction. A CIU investor should receive a notice of purchase and sales of his or her units. |
| **Good Practice C.3** | ***Statements***   1. **An investor should receive periodic, streamlined statements for each account with a securities intermediary or CIU, providing the complete details of account activity in an easy-to-read format.** 2. **Timely delivery of periodic securities and CIU statements pertaining to the accounts should be made.** 3. **Investors should have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period.** 4. **When an investor signs up for paperless statements, such statements should also be in an easy-to-read and readily understandable format.** 5. **If a legal or natural person who provides only investment advice to customers also holds client assets, the client statements should be prepared by and sent from the custodian for the assets and not from the investment adviser.** |
| **Description** | a. LSM Article 66 point 1 sub-point 4 requires that an investment service provider provide a customer with a statement on demand or at least once a quarter. CBA Regulation 4/07 points 43-45 provide that an investment service provider should provide a statement at least once a quarter for managed accounts. LIF Article 94 provides that an asset manager will provide information on its website regarding the fund. The information is also available at the office of the asset manager. There is no implementing regulation for this requirement at the time of this report.  (i) There is no requirement that individual statements be sent to a customer of a non-managed account by mail or e-mail.  (ii) Customers could dispute the accuracy of the information regarding their account through the customer complaints procedure in CBA Regulation 8/04.  (iii) Not applicable.  b. There is not a separate category for a license for investment advisor. |
| **Recommendation** | The regulations should be amended to provide that customer statements be sent to customers by mail or e-mail in any month that a transaction takes place and at least quarterly for customers/investors of an investment service provider or CIU. |
| **Good Practice C.4** | ***Prompt Payment and Transfer of Funds***  **When an investor requests the payment of funds in his or her account, or the transfer of funds and assets to another securities intermediary or CIU, the payment or transfer should be made promptly.** |
| **Description** | LSM Article 64 point 4 provides that funds shall be provided within 3 days of termination of the account. |
| **Recommendation** | No recommendation. |
| **Good Practice C.5** | ***Investor Records***   1. **A securities intermediary, investment adviser or CIU should maintain up-to-date investor records containing at least the following:** 2. **a copy of all documents required for investor identification and profile;** 3. **the investor’s contact details;** 4. **all contract notices and periodic statements provided to the investor;** 5. **details of advice, products and services provided to the investor;** 6. **details of all information provided to the investor in relation to the advice, products and services provided to the investor;** 7. **all correspondence with the investor;** 8. **all documents or applications completed or signed by the investor;** 9. **copies of all original documents submitted by the investor in support of an application for the provision of advice, products or services;** 10. **all other information concerning the investor which the securities intermediary or CIU is required to keep by law;** 11. **all other information which the securities intermediary or CIU obtains regarding the investor.** 12. **Details of individual transactions should be retained for a reasonable number of years after the date of the transaction. All other records required under a. to j. above should be retained for a reasonable number of years from the date the relationship with the investor ends. Investor records should be complete and readily accessible.** |
| **Description** | a. LSM Article 69 sets out the general legal requirement for an investment services provider to maintain books and records. There are no books and records provisions for CIUs.  (i) CBA Regulation 4/07 point 66 creates a general requirement that detailed information should be maintained regarding a customer’s identity, but does not mandate the use of specific documents.  (ii) – (x) There are no specific requirement to maintain these documents.  (iii) CBA Regulation 4/07 points 72-75 provide that records of transactions should be maintained.  b. LSM Article 69 provides that the records must be maintained a minimum of 7 years. |
| **Recommendation** | 1. The books and records regulation should contain more specificity as to the records that are to be maintained, including the advice given to and communications with the clients.  2. The regulations should be expanded, or a new regulation promulgated to include the books and records of an investment fund. |
| **SECTION D** | **PRIVACY AND DATA PROTECTION** |
| **Good Practice D.1** | ***Confidentiality and Security of Customers’ Information***  **Investors of a securities intermediary, investment adviser or CIU have a right to expect that their financial activities will remain private and not subject to unwarranted private and governmental scrutiny. The law should require that securities intermediaries, investment advisers and CIUs take sufficient steps to protect the confidentiality and security of a customer’s information against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access to, or use of, customer information.** |
| **Description** | LSM Articles 97-102 provide for the confidentiality of the customer records of an investment service provider. LIF Article 97 also provides for such confidentiality for customers of a CIU. |
| **Recommendation** | No Recommendation |
| **Good Practice D.2** | ***Sharing Customer’s Information***  **Securities intermediaries and CIUs should:**   1. **inform an investor of third-party dealings in which they are required to share information regarding the investor’s account, such as legal enquiries by a credit bureau, unless the law provides otherwise;** 2. **explain how they use and share an investor’s personal information;** 3. **allow an investor to stop or "opt out" of certain information sharing, such as selling or sharing account or personal information to outside companies that are not affiliated with them, for the purpose of telemarketing or direct mail marketing, and inform the investor of this option.** |
| **Description** | (i) The confidentiality provisions of LSM Articles 97-102 and LIF 97 do not permit the sharing of customer information. However, there are no provisions regarding the transfer of information between the different units of a financial conglomerate which may be permitted.  (ii) Not applicable. See (i)  (iii) Not applicable. See (i) |
| **Recommendation** | The regulations should address the sharing of information within a financial conglomerate and the consumer’s right to opt in or out. |
| **Good Practice D.3** | ***Permitted Disclosures***   1. **If there are to be any specific procedures and exceptions concerning the release of customer financial records to government authorities, these procedures and exceptions should be stated in the law.** 2. **The law should provide for penalties for breach of investor confidentiality.** |
| **Description** | a. LSM articles 97-102 and LIF Article 97 permit some types of disclosure pursuant to court order or other lawful requests. These exceptions are set out in the article.  b. The regulatory sanctions for violations of the confidentiality clause are in LSM Article 209-211 and LIF Article 106-110. In addition, civil liability for breach of confidentiality is set forth in LSM Article 215 point 3 for investment service providers. There is an exception in LSM 215 point 3 from civil liability for an investment service provider for “insufficiencies in technical means or administrative rules undertaken by an investment firm.” There are no civil liability provisions for asset managers and investment funds in the LIF. |
| **Recommendation** | The LSM should be amended to remove the technical and administrative insufficiencies exception in LSM Article 215 point 3. Civil liabilities for breach of the confidentiality provisions should be put into the LIF. |
| **SECTION E** | **DISPUTE RESOLUTION MECHANISMS** |
| **Good Practice E.1** | ***Internal Dispute Settlement***   1. **An internal avenue for claim and dispute resolution practices within a securities intermediary, investment adviser or CIU should be required by the securities supervisory agency.** 2. **Securities intermediaries, investment advisers and CIUs should provide designated employees available to investors for inquiries and complaints.** 3. **Securities intermediaries, investment advisers and CIUs should inform their investors of the internal procedures on dispute resolution.** 4. **The securities supervisory agency should provide oversight on whether securities intermediaries, registered investment advisers and CIUs comply with their internal procedures on investor protection rules.** |
| **Description** | a. CBA Regulation 8/04 provides for the establishment of internal complaints procedures in an investment services provider, asset manager, investment fund or any other entity having a license from the CBA.  b. CBA Regulation 8/04 point 7 and throughout provides for the responsible staff to receive complaints.  c. CBA Regulation 8/04 point 6 requires that a licensed entity put its complaint procedures on its website and prominently display information regarding complaints at its places of operation.  d. The CBA provides oversight on the internal complaint procedures during their inspections. |
| **Recommendation** | No recommendations. |
| **Good Practice E.2** | ***Formal Dispute Settlement Mechanisms***  **There should be an independent dispute resolution system for resolving disputes that investors have with their securities intermediaries, investment advisers and CIUs.**   1. **A system should be in place to allow investors to seek third-party recourse, such as an ombudsman or arbitration court, in the event the complaint with their securities intermediary, investment adviser or CIU is not resolved to their satisfaction in accordance with internal procedure, and it should be made known to the public.** 2. **The independent dispute resolution system should be impartial and independent from the appointing authority and the industry.** 3. **The decisions of the independent dispute resolution system should be binding on the securities intermediaries and CIUs. The mechanisms to ensure the enforcement of these decisions should be established and publicized.** |
| **Description** | a. Law on Financial System Mediator (LFSM) provides for an ombudsman for investor complaints against securities markets institutions. It is well known to the public.  b. The Mediator is impartial and independent.  c. The decisions are binding[[5]](#footnote-5) but appealable. The mechanisms for enforcement are the same as for any judgment. |
| **Recommendation** | No recommendation. |
| **SECTION F** | **GUARANTEE SCHEMES AND INSOLVENCY** |
| **Good Practice F.1** | ***Investor Protection***   1. **There should be clear provisions in the law to ensure that the regulatory authority can take prompt corrective action on a timely basis in the event of distress at a securities intermediary, investment adviser or CIU.** 2. **The law on the investors’ guarantee fund, if there is one, should be clear on the funds and financial instruments that are covered under the law.** 3. **There should be an effective mechanism in place for the pay-out of funds and transfer of financial instruments by the guarantee fund or insolvency trustee in a timely manner.** 4. **The legal provisions on the insolvency of securities intermediaries, investment advisers and CIUs should provide for expeditious, cost-effective and equitable provisions to enable the timely payment of funds and transfer of financial instruments to investors by the insolvency trustee of a securities intermediary or CIU.** |
| **Description** | a. LIF and LSM do not have provisions allowing the CBA to take corrective action such as appointing a receiver or freezing assets of an investment services provider, asset manager or investment fund in the event that such entity is in distress and could place customer assets in jeopardy.  b. There is no investors’ protection guarantee scheme.  c. There is no specific mechanism in place for the pay-out of funds or transfer of financial instruments by the insolvency trustee.  d. The legal provisions on the insolvency of investment service provides, investment funds and asset managers in LIF and LSM do not have specific provisions for quick payouts other than the liquidation provisions for investment service providers, investment funds and asset managers in LIF Articles 101-102 and LSM Articles 89-96. |
| **Recommendation** | The LSM and LIF should be modified to give the CBA more authority to freeze assets and take control of licensed entities that are in distress and may put investors’ assets in jeopardy. |
| **SECTION G** | **CONSUMER EMPOWERMENT** |
| **Good Practice G.1** | ***Broadly based Financial Capability Program***   1. **A broadly based program of financial education and information should be developed to increase the financial capability of the population.** 2. **A range of organizations–including government, state agencies and non-governmental organizations–should be involved in developing and implementing the financial capability program.** 3. **The government should appoint an institution such as the central bank or a financial regulator to lead and coordinate the development and implementation of the national financial capability program.** |
| **Description** | a. Armenia is currently lacking a broad based program for financial education and literacy.  b. A wide range of private sector and governmental entities are not currently coordinating a financial stability program, although individual groups are involved to a limited degree.  c. The CBA is tasked with coordinating and leading a financial literacy program in Armenia. |
| **Recommendation** | A broad based financial literacy program should be developed for Armenia. |
| **Good Practice G.2** | ***Using a Range of Initiatives and Channels, including the Mass Media***   1. **A range of initiatives should be undertaken to improve people's financial capability.** 2. **This should include encouraging the mass media to provide financial education, information and guidance.** |
| **Description** | a. A number of smaller initiatives are under way.  b. The media is not currently involved in a big way in the financial sector. As the market develops and interest increases, the media will become more involved. |
| **Recommendation** | Media financial education programs regarding the capital markets should be developed as part of the broad strategy of financial education. |
| **Good Practice G.3** | ***Unbiased Information for Investors***   1. **Financial regulators should provide, via the internet and printed publications, independent information on the key features, benefits and risks—and where practicable the costs— of the main types of financial products and services.** 2. **Non-governmental organizations should be encouraged to provide consumer awareness programs to the public regarding financial products and services.** |
| **Description** | a. The CBA and the NASDAQ OMX do provide independent information on their websites and to a lesser extent through publications on financial services.  b. There are no significant NGOs in the financial sector in Armenia. |
| **Recommendation** | NGOs should be encouraged and supported by private funds and the government. |
| **Good Practice G.4** | ***Measuring the Impact of Financial Capability Initiatives***   1. **The financial capability of consumers should be measured through a broad-based household survey that is repeated from time to time.** 2. **The effectiveness of key financial capability initiatives should be evaluated.** |
| **Description** | a. The World Bank Group plans to conduct a Financial Literacy Survey in 2012. The final report is expected to be published by mid 2012.  b. Once financial capability initiatives are launched, their effectiveness can be evaluated. |
| **Recommendation** | The World Bank Financial Literacy Survey should be repeated from time to time (every 3-5 years) in order to measure the status of financial capability of consumers as well as the impact of financial literacy initiatives. |
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# Consumer Protection in the Insurance Sector

### Overview

**Based on international survey information, the sector is underdeveloped relative to other jurisdictions**. The insurance penetration ratio for the Armenia, which measures premiums written as a share of GDP, ranks the country approximately 173stof 180 countries recently surveyed (see Table 9). This places Armenia below all the neighboring countries. Furthermore, in terms of insurance density (premiums written per capita), Armenia is ranked at 146th out of 180 surveyed countries and lower than all of its neighbors.

*Table 9: Insurance penetration/density*

|  |  |  |
| --- | --- | --- |
| **2010** | **Insurance Penetration**  **%** | **Insurance Density**  **($US)** |
| **Georgia\*** | 2.01 | 50.65 |
| **Romania** | 1.62 | 123.34 |
| **Moldova** | 1.27 | 20.68 |
| **Belarus** | 0.82 | 46.99 |
| **Azerbaijan** | 0.37 | 21.70 |
| **Armenia** | 0.24 | 7.17 |

*Source: Axco Global Statitics, \* data from 2009*

**There are nine insurance companies operating in the market which are all non-life companies.** The insurance sector has been growing rapidly in recent years. Between 2008 and 2011 total assets increased by around 145 percent to 28.7 bn AMD by September 2011 (see Table 10). The number of insurance contracts also rose from a very low basis of 50.5 thousand by end-2010 to 402.8 thousand by September 2011. Total premiums written by September 2011 amounted to 18.7 bn. AMD compared to 8.3 bn. AMD in 2010) with 12.8 bn. premiums written by households. Growth in the insurance sector has been driven by the introduction of a mandatory motor third party liability that was introduced by law in 2010.

*Table 10: Market growth of insurance sector*

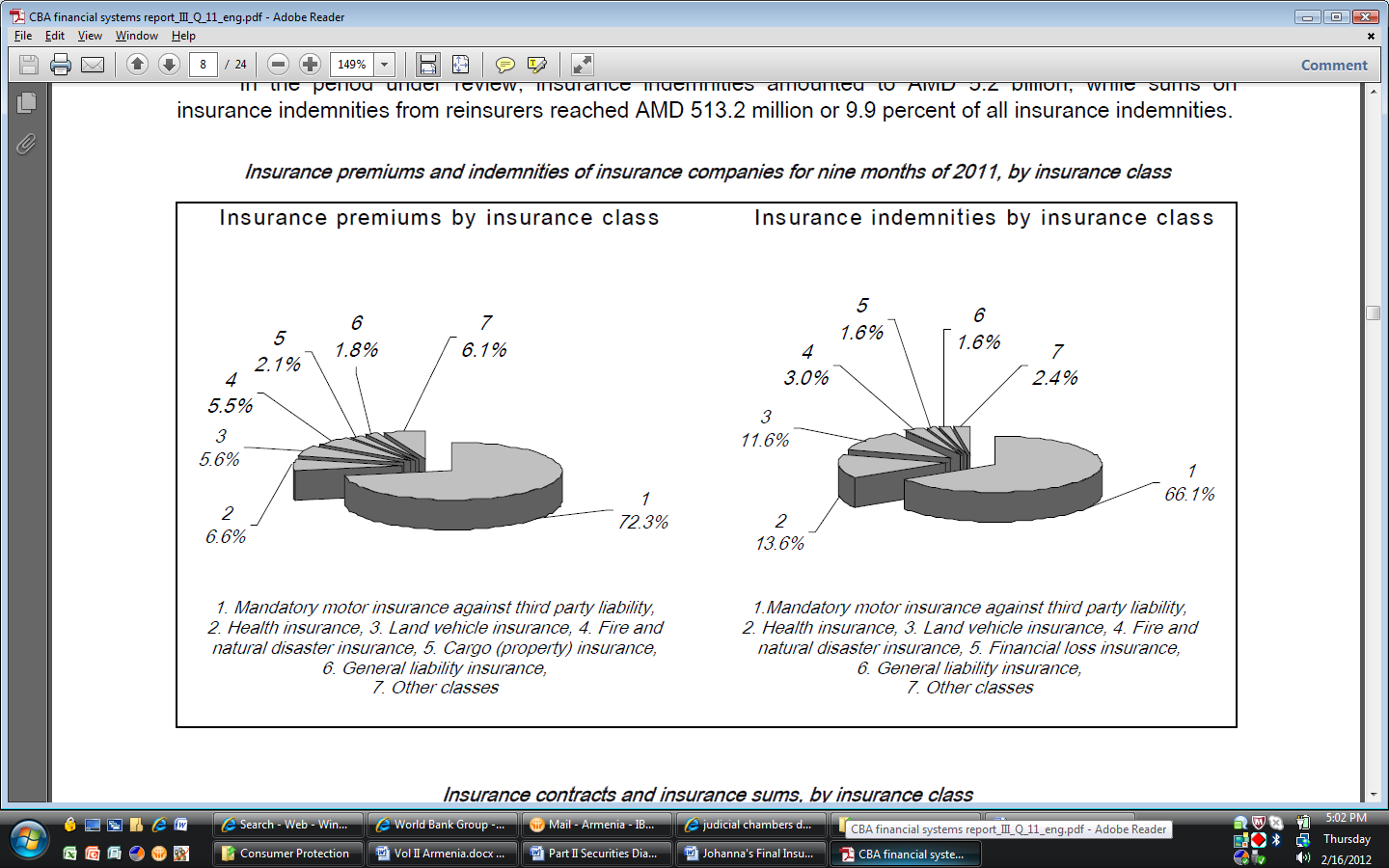
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **MARKET GROWTH** | | | | | | | | |
|  | **2008** | | **2009** | | **2010** | | **Sept 2011** | |
|  | **AMD bn.** | **% Growth** | **AMD bn.** | **% Growth** | **AMD bn.** | **% Growth** | **AMD bn.** | **% Growth** |
| **Life** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Non-Life** | 11.7 | n.a. | 17.0 | 45.3 | 25.6 | 50.9 | 28.7 | 12.1 |
| **Total** | **11.7** | **n.a.** | **17.0** | **45.3** | **25.6** | **50.9** | **28.7** | **12.1** |

*Source: CBA*

**The life insurance market is expected to develop due to the anticipated pension reform.** Currently there is no life insurance company operating in Armenia.From January 1, 2014 the accumulative pension system will be introduced mandatorily.Later in 2012, the government also plans to announce a pension initiative. This is expected to be a first step in developing a life insurance market.

**Mandatory third-party liability insurance accounts for more than 72 percent of premiums written (see Figure 1).** As recently as one year ago, the Armenian Parliament passed a motor third party liability (MTPL) law requiring all Armenian drivers to purchase third-party liability auto insurance. Because of extensive advertisement by the government, the Central Bank of Armenia (CBA) and the MTPL Bureau between 80 and 90% of drivers signed up for the third-party liability insurance. Other shares of the market include health insurance (6.6 percent); land vehicle insurance (5.6 percent) and fire and natural disaster insurance (5.5 percent).

*Figure 1: Insurance premiums and indemnities of insurance companies for nine months of 2011*

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*Source: CBA*

### Comparison with Good Practices for the Insurance Sector

|  |  |
| --- | --- |
| **SECTION A** | **CONSUMER PROTECTION INSTITUTIONS** |
| **Good Practice A.1** | ***Consumer Protection Regime***  **The law should provide for clear rules on consumer protection in all matters of insurance and there should be adequate institutional arrangements for implementation and enforcement of consumer protection rules.**   1. **There should be specific provisions in the law, which create an effective regime for the protection of retail consumers of insurance.** 2. **The rules should prioritize a role for the private sector, including voluntary consumer organizations and self-regulatory organizations.** |
| **Description** | The Law on Insurance and Insurance Activities (hereinafter LIIA) defines relations between an insurance company and its insurance customers. In Article 81, (LIIA), an insurer is required to provide information including but not limited to:   * a profile of its business * information about the regulatory and licensing authority * information about the essential terms and conditions of an insurance contract * information about how claims are paid   Insurers must:   * ensure equal conditions for policyholders * eliminate conflict of interests. * Insurers are prohibited from providing false or misleading information.   In addition, to the LIIA, the Central Bank of Armenia has adopted regulations. These include:   * rules governing the mandatory requirements and conditions for notices provided by insurance companies to policyholders (Resolution 162–N) * rules governing appeals and disputes (Regulation 8.04) * a separate law on mediation of insurance disputes (Law on Financial System Mediator)   A separate law on compulsory insurance of liability arising out of the use of motor vehicles (MTPL Law) and the MTPL regulation 8.03 contain consumer protection provisions for policyholders of mandatory automobile liability insurance.  The Central Bank of Armenia (hereinafter CBA) has made a notable effort to incorporate in its insurance laws, several layers of consumer protection. The CBA approach to the protection of insurance consumers is very comprehensive. Although there is a very comprehensive system for handling complaints, the laws and regulations do not appear to contain sufficient legal and regulatory tools to support a claims monitoring system. Other jurisdictions have specific and comprehensive listings of prohibited claims practices related to timeliness, proper investigations, and disclosure. There appears to be no comprehensive set of regulatory tools that cover claims practices All jurisdictions in the United States and increasingly in Europe and Asia, have a set of standards for fair claims handling. The Armenian regulations do not set forth the standards in a way that can be used by its consumer protection/complaint handling system. Claim handling provisions can be found in Article 42 of Regulation 3.10 on Minimum Requirements presented to the Internal Audit Activities, Internal Control System of Insurance Companies. It states:  42. In case of refusing a claim for insurance compensation the insurance company shall provide the customer with a written conclusion on the refusal of the claim stating the reasons and the basis for such a refusal. The copy of the abovementioned documents shall be kept at the insurance company.  In addition, Article 25 of the Regulation 3.10 on Minimum Requirements presented to the Internal Audit Activities, Internal Control System of Insurance Companies refers to the process of settling the claims submitted for insurance compensations. The internal control system shall among others at least stipulate:  1) Order of accepting, registering and record keeping of insurance claims;  2) Order, dates of settling insurance claims including giving conclusions on paying or refusing to pay insurance compensations, of compensation payments as well as mechanisms of supervising those processes.  Neither of the two sections described above reach the level of consumer protection that unfair claims practices standards are designed to reach.  Furthermore, there are many complaint handling agencies dealing with insurance complaints. For example, if a consumer is unhappy with the results of an MTPL claim he can:   * call the insurer * call the MTPL Bureau hotline (they get 10 calls per day) * call the Consumer Protection Division hotline * contact the Financial System Mediator   From a systemic standpoint, this may be confusing and possibly less user-friendly. |
| **Recommendation** | The complaint handling system and its agencies should be examined with regards to consistency and effectiveness.  The CBA should update regulation on claims practices, requiring timely investigation and payment of claims and prohibiting misrepresentation of policy terms and conditions in sales practices and advertising. Should the claims-handling practice be unsatisfactory, either educational and/or regulatory action should be implemented to ensure fair and swift claims settlement.  As the MTPL insurance is still a new product on the Armenian market, the CBA and the Mediator should pay special attention to complaints about the insurance practices in this area. Also, on-site inspections of the insurers should include a detailed analysis of claims settlement for MTPL insurance. Should the claims-handling practice be unsatisfactory, either educational and/or regulatory action should be implemented to ensure fair and swift claims settlement.  Consumer awareness should be enhanced by disclosing a statement of consumer rights which should be publicized by the Central Banks and included with the purchase of a policy. The consumer rights could look like this:  An insurer:   * Must refrain from unfair practices * Must operate in good faith * Cannot slow-roll or intentionally delay consumers * Cannot fail to make important disclosures * Cannot mislead consumers * Cannot underpay consumers, or give partial payment on a claim * Cannot fail to investigate a claim * Cannot force a consumer to go to court |
| **Good Practice A.2** | ***Contracts***  **There should be a specialized insurance contracts section in the general insurance or contracts law, or ideally a separate Insurance Contracts Act. This should specify the information exchange and disclosure requirements specific to the insurance sector, the basic rights and obligations of the insurer and the retail policyholder and allow for any asymmetries of negotiating power or access to information.** |
| **Description** | The Law on Insurance and Insurance Activities (hereinafter LIIA), addresses insurance contracts in several sections:   * an insurance contract must be related to the type of risk * an insurance contract must inform the consumer of the essential terms and conditions of the contract (Article 81).   Prior to entering into an insurance contract, an insurance broker must meet several conditions including but not limited to:   * disclosure to the consumer of information, and a profile of the insurer, * the conditions of the insurance contract to be entered into, including premiums and restrictions related to the contract, * claims procedures, * disclosure of brokerage fee verification of the terms of the policy, * other issues related to the contract. (Articles 95 and 102).   The law on “compulsory insurance of liability arising out of the use of motor vehicles” (Motor Third Party Liability Insurance Law – MTPL Law) also has provisions governing the insurance contract.  Asymmetries in the insurer/consumer bargaining relationship are a common problem. Because individual consumers cannot generally negotiate the terms of an interest contract (i.e. MTPL), the contract is given on a “take-it-or-leave-it” basis (“contract of adhesion”). The legal remedy that has been developed for this asymmetry is the concept that if a contract term is vague or ambiguous, the court must find in favor of the weaker party, the consumer. In Armenia, Law on Legal Acts provides that if there is a conflict of two laws (two articles), then a court makes a decision in favor of the client or consumer. However, nothing in the financial regulations law addresses how vagueness or ambiguity in contract terms should be handled.  The right to bring a grievance to the Financial System Mediator is required to be spelled out in the insurance contract at the point-of-sale. The Financial System Mediator regulations contain a very user-friendly appendix which explains a consumer's right to appeal to the Financial System Mediator. The insurer is also required to have the Financial System Mediator brochure in its offices or posted on the Internet. (Regulation 8.04). |
| **Recommendation** | Although insurers are required to disclose information about the Financial System Mediator to consumers it is still possible that a consumer may not know that he/she has a right to go to the Financial System Mediator without repeated and extended public education campaign.  An ambiguity in an insurance contract should rebound in favor of the insurance consumer because of the imbalance in that negotiating relationship. The insurance law should be amended to include more specific protections for retail consumers related to the imbalance in the bargaining position between a consumer and an insurer when purchasing an insurance contract. |
| **Good Practice A.3** | ***Codes of Conduct for Insurers***   1. **There should be a principles-based code of conduct for insurers that is devised in consultation with the insurance industry and with relevant consumer associations, and that is monitored and enforced by a statutory agency or an effective self-regulatory agency.** 2. **If a principles-based code of conduct exists, insurers should publicize and disseminate it to the general public through appropriate means.** 3. **The principles-based code should be augmented by voluntary codes for insurers on such matters specific to insurance products or channels.** 4. **Every such voluntary code should likewise be publicized and disseminated.** |
| **Description** | There is currently no code of conduct for insurers, agents, or brokers. However, regulators and industry all agree, that a code of conduct should be adopted by the industry and professions. |
| **Recommendation** | The insurance association should adopt a code of conduct for the insurers and the agents and brokers should adopt one for their respective professions.  The industry should be required to implement the code, publicise its existence and disseminate information on it generally and with each specific insurance transaction. |
| **Good Practice A.4** | ***Other Institutional Arrangements***   1. **Prudential supervision and consumer protection can be placed in separate agencies or lodged in a single institution, but allocation of resources between prudential supervision and consumer protection should be adequate to enable the effective implementation of consumer protection rules.** 2. **The judicial system should provide credibility to the enforcement of the rules on financial consumer protection.** 3. **The media and consumer associations should play an active role in promoting consumer protection in the area of insurance.** |
| **Description** | a. Armenia has adopted the Consolidated Regulator approach to financial regulation in which all regulatory activities are concentrated in one entity- the CBA. In line with this, the Consumer Protection and Market Conduct (CPMC) Division in the CBA is in charge of the market conduct supervision of all sectors, including insurance.  b. The Financial System Mediator resolves disputes between individual consumers and all types of financial institutions, including insurance companies. The right to appeal decisions about insurance coverage is afforded to both insurers and consumers. However, consumers always retain their right to bring their complaint to the court if they are not satisfied with the decision of the Mediator. Consumers might also go to court directly without first lodging their complaint with the Mediator.  c. There appears to be little or no activity of consumer groups on insurance issues. |
| **Recommendation** | Insurance examiners of the CBA should be specially trained on insurance sector related supervisory issues. To the extent that insurance market conduct supervision under the CBA can be more specialized, the more effective it might be. In addition, thoughts should be given to provide more insurance related trainings to case handling specialists at the Financial System Mediator in order to improve their specialized knowledge on insurance. |
| **Good Practice A.5** | ***Bundling and Tying Clauses***  **Whenever an insurer contracts with a merchant or credit grantor (including banks and leasing companies) as a distribution channel for its contracts, no bundling (including enforcing adhesion to what is legally a single contract), tying or other exclusionary dealings should take place without the consumer being advised and able to opt out** |
| **Description** | The Armenian Law on Insurance and Insurance Activities (LIIA), has a specific prohibition on bundling and tying clauses: “insurance companies shall be disallowed to offer a customer other insurance services, as a condition to enter into an insurance contract with that customer, to be provided exclusively by it or by a party assigned by it.” (LIIA Article 81 (4). |
| **Recommendation** | No recommendation. |
| **SECTION B** | **DISCLOSURE & SALES PRACTICES** |
| **Good Practice B.1** | ***Sales Practices***   1. **Insurers should be held responsible for product-related information provided to consumers by their agents (i.e. those intermediaries acting for the insurer).** 2. **Consumers should be informed whether the intermediary selling them an insurance contract (known as a policy) is acting for them or for the insurer (i.e. in the latter case the intermediary has an agency agreement with the insurer).** 3. **If the intermediary is a broker (i.e. acting on behalf of the consumer) then the consumer should be advised at the time of initial contact with the intermediary if a commission will be paid to the intermediary by the underwriting insurer. The consumer should have the right to require disclosure of the commission and other costs paid to an intermediary for long-term savings contracts. The consumer should always be advised of the amount of any commission and other expenses paid on any single premium investment contract.** 4. **An intermediary should be prohibited from identically filling brokering and agency roles for a given general class of insurance (i.e. life and disability, health, general insurance, credit insurance).** 5. **When a bank is the intermediary, the sales process should ensure that the consumer understands at all times that he or she is not purchasing a bank product or a product guaranteed by the bank.** 6. **Sanctions, including meaningful fines and, in the case of intermediaries, loss of license, should apply for breach of any of the above provisions.** |
| **Description** | 1. Product Information: There are three sections which relate to the question of whether insurers should be held liable for product related information provided to consumers by agents. One section of the LIIA, provides that in order to ensure compensation for damage due to professional negligence, an insurance intermediary must enter into a contract for liability insurance (Article 90). However, this does not answer the question of whether the insurer is held responsible for information provided to consumers by agents. In the LIIA, insurance intermediaries act pursuant to an outsourcing agreement. The outsourcing agreement provides that the insurer, “shall bear responsibility before the policyholders and third parties for failure to carry out or improperly carry out its operations outsourced to the Counterparty by means of the outsourcing agreement” (Article 53 (3)). Finally, another section of the LIIA, entitled Responsibility for Violation of Laws and Regulations, imputes responsibility to the insurers for acts of their subordinates. In other words, insurers are ultimately responsible (Article 144). 2. Disclosure of intermediary role to consumer: Under the LIIA, there is a two-pronged requirement for insurance intermediaries. The agent shall inform the consumer that he/she can access the register of insurance agents. Secondly, the agent must inform the consumer of the insurer or insurers that he/she represents and the types of insurance that he/she is authorized to sell. (LIIA, Article 102). 3. Disclosure of broker’s commissions: Similarly, in the LIIA, brokers are required to disclose whether they have a qualifying holding in the capital of the insurer they represent and inform the consumer of the consumer's right to demand that the broker disclose the amount of the brokerage fee charged for the insurance contract. (LIIA Article 95). 4. Acting as an agent and broker: The LIIA states that a broker cannot simultaneously provide insurance agent services and an insurance agent cannot simultaneously provide brokerage services (LIIA Article 90). 5. Bank as intermediaries: Article 34 Law on Banks and Banking allows the bank to act as an agent for an insurer. The individual in the bank who sells the insurance product does not necessarily have an insurance broker or agent license. However, the bank has been given permission by the CBA to market the insurance products at the bank. The bank does make it clear that it is not a bank backed product or guaranteed by the bank 6. Sanctions: The LIIA contains penalties and sanctions. |
| **Recommendation** | Consumers should be clearly informed that the insurance company is fully responsible for sales practices of all agents acting on its behalf and that they can address any complaint to the insurer.  CBA should regularly verify that the tests administered to insurance agents reflect the needs of proper service to consumers. |
| **Good Practice B.2** | ***Advertising and Sales Materials***   1. **Insurers should ensure their advertising and sales materials and procedures do not mislead customers. Regulatory limits should be placed on investment returns used in life insurance value projections.** 2. **Insurers should be legally responsible for all statements made in marketing and sales materials they produce related to their products.** 3. **All marketing and sales materials should be easily readable and understandable by the general public.** |
| **Description** | a. Advertising and sales materials: The LIIA provides that insurers must not make misleading statements about the financial standing of a company, its position in the financial markets its reputation or legal status. (Article 84). See also, (Article 10). In addition, CBA regulations governing financial institutions address advertisements as well. Regulation 8.03 Chapter 6 paragraph 37 states: “an advertisement should not have an influence on a consumer's attitude towards the advertised service or company due to inaccuracy, uncertainty, overstatement or misrepresentation”. There is also direction in the internal control documents stating that contrary policies and information shall not “contain provisions that are misleading or misguiding, shall not violate the rights of policyholders…” (CBA Regulation 3/10 Chapter 6 point 41).  The MTPL Bureau has regulations which accomplish the desired direction on disclosure and prohibition of misrepresentation at the point of sale. They are worth quoting, specifically Rules Rl 1-011 "Armenian Motor Insurers’ Bureau" Union of Legal Entities Section 1:  “The member insurance companies…in their…published or promotional materials, announcements, public or private proposals or public offerings…shall be guided by the Law, prudential regulations of the Central Bank of Armenia and requirements stipulated in Bureau rules. In particular:  1) shall not use in their advertisements, public offerings or in any other announcements made in their name such misleading information or statements made by other entities on the given insurance company, which may lead to a misleading assumption on Compulsory Motor Third Party Liability Insurance (hereinafter CMTPLI) System, its nature, the principles contained therein, the financial standing of the Company, its position in the financial market;  2) any information included in advertisements must be accurate, complete, clear, at least presented in Armenian language and shouldn’t contain multifaceted ideas, phrases giving rise to various interpretations;  3) promotional materials should be clear and accessible for consumers without any confusing, tricky or misleading words, expressions, highly professional, technical terms;  4) an advertisement should not have an influence on CMTPLI system, its individual elements or institutions, as well as consumer’s attitudes towards the insurance company due to inaccuracy, uncertainty, overstatement and misrepresentation;  5) the names, texts, links, forecasts, descriptions or praise, special information about CMTPLI services and cautions available in advertisement are presented clearly, should not be obscure and somehow covered in advertisement content, design, structure or presentation style;  6) footnote notes or texts in small font size available in advertisement should be presented in sufficient size to be legible. If available, the link to corresponding source is provided to get more details;  7) if advertisement presents more services other than CMTPLI service, the different characteristics of each service are clearly separated, so that the consumer could clearly differentiate services from each other;  8) promotional materials should not criticize activities or services of the competing insurance companies in any way regardless of whether the information is reliable or not;  9) promotional materials should not include any promises about discounts to insurance premiums or additional services not connected with CMTPLI system or supplying products (gifts) or provided services (goods) for entering into CMTPLI contract by insurance company or any other person.”  Regulatory limits related to investment returns on life insurance projections are not applicable in Armenia.   1. b. Legal responsibility for marketing and sales materials rest squarely with the insurer disseminating those materials. Insurance intermediaries act pursuant to an outsourcing agreement. The outsourcing agreement provides that the insurer, “shall bear responsibility before the policyholders and third parties for failure to carry out or improperly carry out its operations outsourced to the Counterparty by means of the outsourcing agreement.” LIIA Article 53 (3).   c. Easy readability: The CBA regulations governing information from financial institutions (including insurers) state that “footnote or texts in small font size available in advertisement should be presented insufficient size to be legible. If available, the link to the corresponding source is provided to get more details.” (Regulation 8.03 Chapter 6 point 39). The section also states that different services should be delineated to avoid confusion. (Regulation 8.03 Chapter 3 point 4, subpoint 3). |
| **Recommendation** | In insurance consumer protection, an extremely well known provision in widespread use in insurance regulation prohibits misrepresentation in marketing and sales practices. The language in the MTPL regulations is very good and should be extended to the rest of the insurance code. For example, the prohibition contained in the LIIA is limited to misrepresentation of the financial standing of an insurer. There is more specific language contained in CBA Regulation 3/10 Chapter 6, 41 of the internal controls documents. However, a stand-alone provision prohibiting misleading sales practices should be incorporated in the general LIIA.  The Bureau rules cited above are very comprehensive. However, like many consumer protection laws in the U.S. there should also be a requirement that the insurers place their name and address—prominently—on all its advertisements. This should apply to all insurers, all lines of insurance –including MTPL.  There are general provisions on readability. However this doesn't quite get at the issue. It's not necessarily the size of the type when it comes to comprehending insurance documents, but the density of the wording of insurance contracts. The CBA should consider standards prescribing easily understandable language to be contained in insurance contracts. |
| **Good Practice B.3** | ***Understanding Customers’ Needs***  **The sales intermediary or officer should be required to obtain sufficient information about the consumer to ensure an appropriate product is offered. Formal ―fact finds‖ should be specified for long-term savings and investment products and they should be retained and be available for inspection for a reasonable number of years.** |
| **Description** | There are three sections of the LIIA which deal with the concept of “know your customer.” First, the section on relations between company and customer states that an insurer should “draw up an insurance contract that is relevant to the nature and coverage of risks to be insured by the customer” (Article 81 (1)(4)). Second, an insurer must know his customer because “the commitments undertaken by insurance company towards one customer shall not be in conflict with its commitments toward another customer” (Article 81(3) (1)). Third, under requirements for intermediation of insurance contracts, it states that the intermediary must “inform the customer of conditions of insurance types, classes and subclasses offered by insurance companies” (Article 95 (1) (4)). |
| **Recommendation** | No recommendation. |
| **Good Practice B.4** | ***Cooling-off Period***  **There should be a reasonable cooling-off period associated with any traditional investment or long-term life savings contract, after the policy information is delivered, to deal with possible high pressure selling and mis-selling.** |
| **Description** | Armenia has no cooling off periods for the insurance market. |
| **Recommendation** | Cooling off periods should be considered for all types of insurance contract sales. Considerations could be given to a seven day cooling-off period in line with the cooling-off period foreseen in the Law on Consumer Credit. |
| **Good Practice B.5** | ***Key Facts Statement***  **A Key Facts Statement should be attached to all sales and contractual documents, disclosing the key factors of the insurance product or service in large print.** |
| **Description** | The Law on Insurance and Insurance Activities (LIIA) defines relations between an insurance company and its insurance customers. According to Article 81, (LIAA), an insurer is required to provide information including but not limited to:   * a profile of its business * information about the regulatory and licensing authority * information about the essential terms and conditions of an insurance contract * information about how claims are paid.   In another section, of the LIIA (Article 95), an insurance intermediary is required to   * offer an insurance contract which meets the requirements of the customer and justify the offer * introduce, in writing or verbatim, the customer to all conditions of the insurance contract to be entered into, particularly the size of insurance premiums and the restrictions relating to the contract, and other conditions; * introduce, in writing or verbatim the customer to the principles and conditions of compensation upon the occurrence of the insurance event * inform the customer of the right to demand that the insurance broker disclosed the amount of the brokerage fee for the mediated insurance contract * verify the content of the insurance policy * if necessary, or upon the request of the consumer, conduct an assessment of the compliance by an of insurer with the prudential standards the required by law   There are several other sections which require the same information, however, there is no “key facts” statement per se required on the insurance contract. |
| **Recommendation** | A key facts statement with the policy at point of sale is recommended to help confused consumers. |
| **Good Practice B.6** | ***Professional Competence***   1. **Sales personnel and intermediaries selling and advising on insurance contracts should have sufficient qualifications, depending on the complexities of the products they sell.** 2. **Educational requirements for intermediaries selling long-term savings and investment insurance products should be specified, or at least approved, by the regulator or supervisor.** |
| **Description** | Insurance intermediaries in Armenia consist of agents and brokers. There are currently four brokers. The brokers are required to take a test administered by the CBA and to retake that test every 3 years. The Legal Department is responsible for licensing and testing brokers. Agents are registered with the, Legal Department, however, they are licensed by the companies that they represent. The LIIA provides extensive requirements for insurance intermediaries including but not limited to meeting qualification and professional adequacy criteria set by the CBA, no criminal record, no court judgments against him/her, no bankruptcies and no improper conduct. The intermediary must carry liability insurance and is required to provide extensive information to the consumer at the point of sales as discussed herein. (LIIA, Article 90). In addition, the intermediary must keep separate book keeping accounts of assets including special handling of consumer premium payments. (LIIA, Article 92).  There are no investment insurance products in Armenia.  The CBA has developed a comprehensive licensing and monitoring system for insurance intermediaries. The CBA allows agents to contract with multiple insurers which is acceptable under EU Directives. That does not however, remove the potential for conflicts of interest. Interestingly, one insurer reported that it signs its agents exclusively to ameliorate that possibility. |
| **Recommendation** | No recommendation. |
| **Good Practice B.7** | ***Regulatory Status Disclosure***   1. **In all of its advertising, whether by print, television, radio or otherwise, an insurer should disclose: (i) that it is regulated, and (ii) the name and address of the regulator.** 2. **All insurance intermediaries should be licensed and proof of licensing should be readily available to the general public, including through the internet.** |
| **Description** | Disclosure of the regulator: The LIIA requires in several sections that an insurance intermediary and an insurer disclose that they are regulated and who the regulator is. However, interestingly it does not specify on what materials that disclosure should be printed just that the disclosure should be made. (LIIA, Article 81).  Proof of licensing: The LIIA also provides for a registry of insurance intermediaries that should be contained on the CBA website. (LIIA, Article 89). |
| **Recommendation** | The disclosure of the supervisory authority is comprehensive, however, it might be prudent to specify exactly where that disclosure should be made to maximize the possibility of the consumer to access the information. It should be disclosed on the face sheet of the policy, in the key facts statement, and in the Financial System Mediator brochure. |
| **Good Practice B.8** | ***Disclosure of Financial Situation***   1. **The regulator or supervisor should publish annual public reports on the development, health, strength and penetration of the insurance sector either as a special report or as part of the disclosure and accountability requirements under the law governing it.** 2. **Insurers should be required to disclose their financial information to enable the general public to form an opinion with regards to the financial viability of the institution.** 3. **If credible claims paying ability ratings are not available, the regulator or supervisor should periodically publish sufficient information on each insurer for an informed commentator or intermediary to form a view of the insurer’s relative financial strength.** |
| **Description** | 1. The CBA issues an annual report on “The Financial System of Armenia, Development Supervision, Regulation” discussing the financial condition of each sector including insurance. 2. Insurers are required to place their financial information on their website as well as financial statements and external audit reports on financial statements (LIIA, Article 84). 3. N/A |
| **Recommendation** | The CBA report on insurance is extremely well done and sophisticated. It may well be too sophisticated for the average Armenian insurance consumer. The CBA should increase the amount of consumer-friendly information they provide on the state of markets and concerning the financial position of individual insurers. |
| **SECTION C** | **CUSTOMER ACCOUNT HANDLING AND MAINTENANCE** |
| **Good Practice C.1** | ***Customer Account Handling***   1. **Customers should receive periodic statements of the value of their policy in the case of insurance savings and investment contracts. For traditional savings contracts, this should be provided at least yearly, however more frequent statements should be produced for investment-linked contracts.** 2. **Customers should have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period.** 3. **Insurers should be required to disclose the cash value of a traditional savings or investment contract upon demand and within a reasonable time. In addition, a table showing projected cash values should be provided at the time of delivery of the initial contract and at the time of any subsequent adjustments.** 4. **Customers should be provided with renewal notices a reasonable number of days before the renewal date for non-life policies. If an insurer does not wish to renew a contract it should also provide a reasonable notice period.** 5. **Claims should not be deniable or adjustable if non-disclosure is discovered at the time of the claim but is immaterial to the proximate cause of the claim. In such cases, the claim may be adjusted for any premium shortfall or inability to recover reinsurance.** 6. **Insurers should have the right to cancel a policy at any time (other than after a claim has occurred – see above) if material non-disclosure can be established.** |
| **Description** | N/A a,b,c.  d. According to the Bureau and CBA, there was an unprecedented 80-90% enrollment (depending on who is reporting the data). According to the Bureau in its second year of operation renewals have declined and therefore, enrollment has declined. One insurer reported that when it came time to renew MTPL, company agents were supposed to call consumers. It is arguable that failure to have a comprehensive system of renewal may account for some of the expected drop off in motor liability insurance in 2012. It would appear that one of the reasons for the drop off in MTPL enrollment is the fact that the insurers sent out no renewal notices (according to at least one company), and there are no renewal provisions in the law or regulations. Not only do most insurance laws have renewal provisions, but they have specific requirements in those provisions.  e. and f. The Armenian Civil Code gives the right to an insurer to either reduce or deny payment of a claim if the consumer has given false information or fails to disclose information when entering into an insurance contract. (Article 1000 Civil Code). What is unclear is whether the nondisclosure need be material to the claim. |
| **Recommendation** | Although there is a regulation on notices to consumers, it only speaks to the form of the notice and not to the content (Regulation No. 162–N). The adoption of regulations addressing the issue of renewal notices is clearly recommended. A time frame should be contained in the renewal and easily understandable language about what the renewal involves. |
| **SECTION D** | **PRIVACY & DATA PROTECTION** |
| **Good Practice D.1** | ***Confidentiality and Security of Customers’ Information***  **Customers have a right to expect that their financial transactions are kept confidential. Insurers should protect the confidentiality and security of personal data, against any anticipated threats, or hazards to the security or integrity of such information, and against unauthorized access.** |
| **Description** | The LIIA contains an entire chapter on “insurance secrecy.” In particular, there is a prohibition against disclosure of insurance secrets: “information constituting an insurance secret relating to a certain customer may be disclosed only when the customer authorizes the disclosure thereof in writing or gives verbal authorization at a court. Only information exclusively concerning to the customer may, once authorized by the customer, be disclosed in accordance with article 117 hereunder.”(LIIA, Article 109). Another provision in the same chapter requires protection of customer information when dealing with an insurance intermediary. The protection of consumer confidential information is quite complete. |
| **Recommendation** | No recommendation. There are adequate safeguards of consumer information contained in the LIIA. |
| **SECTON E** | **DISPUTE RESOLUTION MECHANISMS** |
| **Good Practice E.1** | ***Internal Dispute Settlement***   1. **Insurers should provide an internal avenue for claim and dispute resolution to policyholders.** 2. **Insurers should designate employees to handle retail policyholder complaints.** 3. **Insurers should inform their customers of the internal procedures on dispute resolution.** 4. **The regulator or supervisor should investigate whether insurers comply with their internal procedures regarding consumer protection.** |
| **Description** | The CBA has instituted a thorough and thoughtful dispute resolution process both internal and external. The internal process contains the following features:   * notice to the customers of financial system mediator dispute resolution process at the point-of-sale * the law on the financial system mediator requires insurer to have an internal legal acts it ministering process to examine customer appeals * this information should be put on the insurer's website * the CBA shall proscribe minimum requirements (See, LFSM Article 7).   In addition, CBA regulation 8/04 sets out specific standards for internal customer appeals:   * requirements for acceptance of appeals making the process clear and understandable, * deadlines, * complete information on how to submit a claim or appeal, * the ability of the customer to make the case orally or in writing, * requiring a clear rationale of the decision made by the company, * informing the consumer about the Financial System Mediator.   It is important to note that the MTPL Bureau also has an internal complaint handling process. The Bureau has stated that it receives ten calls per day. |
| **Recommendation** | There is a good structure in place, but not enough consumers know about it—demonstrated by fifteen complaints to the Financial System Mediator in 2010. More advertising and outreach should be done by the CBA to promote internal and external complaint handling mechanisms.  In addition, CBA regulation 8/04 sets out specific standards for internal customer appeals. However, the insurance regulators should design specific market conduct examinations to monitor insurer compliance with internal dispute provisions. |
| **Good Practice E.2** | ***Formal Dispute Settlement Mechanisms***   1. **A system should be in place that allows consumers to seek affordable and efficient third-party recourse, which could be an ombudsman or tribunal, in the event the complaint with the insurer cannot be resolved to the consumer’s satisfaction in accordance with internal procedures.** 2. **The role of an ombudsman or equivalent institution *vis-à-vis* consumer disputes should be made known to the public.** 3. **The ombudsman or equivalent institution should be impartial and act independently from the appointing authority and the industry.** 4. **The decisions of the ombudsman or equivalent institution should be binding upon the insurers. The mechanisms to ensure the enforcement of these decisions should be established and publicized.** |
| **Description** | The CBA has instituted a thorough independent third party external dispute resolution process. The Law on the Financial System Mediator was adopted in 2008. It establishes an independent ombudsman who has the right to examine claims brought before it by insurance consumers. It outlines the process and procedures for the consumer and set deadlines for decisions. It issues a report each year describing its activities in discussing some of its cases. It hires experts, conducts investigations and hears evidence in an administrative proceeding. The investigators and hearing officers do not specialize in the types of financial regulation i.e. insurance. However, an examination of its report shows that when an insurance claim is being handled, insurance experts are hired to examine the evidence and render an expert opinion. This makes up for the lack of specialty of the internal employees. Decisions are binding by agreement with the consumer having the right to appeal and the insurer the right to appeal under certain circumstances. It is the centerpiece for consumer protection in the CBA regulatory/supervisory system.  In the 2010 report, the data shows that there were 15 insurance cases examined by the financial system mediator. This doesn't account for the cases that were rejected. |
| **Recommendation** | It is imperative for the CBA and the FSM to get the word out to the public either by advertising or any other means to increase its caseload. In a system where hundreds of thousands of people are now insured, there should be a much larger volume of cases. |
| **SECTION F** | **GUARANTEE SCHEMES AND INSOLVENCY** |
| **Good Practice F.1** | ***Guarantee Schemes and Insolvency***   1. **With the exception of schemes covering mandatory insurance (and possibly long-term insurance), insolvency guarantee schemes are not to be encouraged for insurance because of the opaque nature of the industry and the scope for moral hazard. Strong governance and prudential supervision are better alternatives.** 2. **Nominal defendant arrangements should be in place for mandatory insurances such as motor third party liability insurance to cover situations where there is no insured guilty party.** 3. **Assets covering life insurance mathematical reserves and investment contract policy liabilities should be segregated or at the very least earmarked, and long-term policyholders should have preferential access to such assets in the event of a winding-up.** |
| **Description** | There is only one Guarantee Association in Armenia and it is related to the MTPL system. Its purposes is to pay the claim of an uninsured motorist who is in a collision for the damage to the other car, or a motorist who’s vehicle was stolen or a motorist who is bankrupt and cannot pay a judgment—all damages go to the aggrieved party. A second purpose, as stated by the regulators, is to protect consumers in case an insurer who sells MTPL becomes insolvent. However, the law outlining the guaranty association is unclear raising this question: if a company becomes insolvent does the guarantee association pay the claims of its MTPL customers? The stated reason for the existence of the guaranty association is that it will compensate consumers in the event of an insurer insolvency, because a MTPL is considered mandatory as opposed to “voluntary” insurance. |
| **Recommendation** | This certainly comports with the European model of how to deal with uninsured motorists. However, there should be provisions in place on how the Guarantee Association should operate in the case of insolvency, how insurers will be assessed for the insolvency fund and how much of the claim amounts policyholders will be able to recover. |
| **SECTION G** | **CONSUMER EMPOWERMENT** |
| **Good Practice G.1** | ***Broadly based Financial Capability Program***   1. **A broadly based program of financial education and information should be developed to increase the financial capability of the population.** 2. **A range of organizations–including government, state agencies and non-governmental organizations–should be involved in developing and implementing the financial capability program.** 3. **The government should appoint an institution such as the central bank or a financial regulator to lead and coordinate the development and implementation of the national financial capability program.** |
| **Description** | MTPL represents the first type of comprehensive insurance coverage for Armenia. It is both of economic and cultural importance.  The CBA has reported that there is to be a nationwide “national education strategy” in 2012. If further reports that the CBA as undertaken several initiatives:   * a website for financial services * brochures on insurance and MTPL * school competition programs on financial issues * qualifying teachers on financial issues * educational materials for children * a hotline * informational video clips |
| **Recommendation** | In 2011, the CBA undertook an advertising initiative to inform the public of its requirement to sign up for MTPL insurance. According to the Bureau and CBA, there was an unprecedented 80-90% enrollment (depending on who is reporting the data). According to the Bureau in its second year of operation renewals have declined and therefore, enrollment has declined. Now the CBA has stated that the burden of advertising rests with the insurers.  The CBA should not relax its advertising strategy on MTPL and partner with the insurance industry to continue advertising. Along with the new health insurance system for government employees as well as the planned new pension system, the CBA should continue to be a messenger to Armenian citizens about the importance of insurance/pensions to the economic vitality of its society. In addition to informing its citizens about the need to enroll in MTPL, the CBA should also go to great lengths to inform its citizens of its rights to a fair claims handling process when utilizing its MTPL coverage. The Financial System Mediator is an excellent tool for consumer protection, but fifteen cases per year cannot represent the actual claims issues that arise for consumers. |
| **Good Practice G.2** | ***Unbiased Information for Consumers***   1. **Consumers, especially the most vulnerable, should have access to sufficient resources to enable them to understand financial products and services available to them.** 2. **Financial regulators should provide, via the internet and printed publications, independent information on the key features, benefits and risks—and where practicable the costs–of the main types of financial products and services.** 3. **Non-governmental organizations should be encouraged to provide consumer awareness programs to the public regarding financial products and services.** |
| **Description** | Armenian insurance regulators do provide printed publications, website material and independent information about insurance products in Armenia. It is difficult to understand what it takes to penetrate the mind of the public. |
| **Recommendation** | Enhanced advertising on TV could be a very effective way to reach the public. |
| **Good Practice G.3** | ***Measuring the Impact of Financial Capability Initiatives***   1. **Policymakers, industry and advocates should understand the financial capability of various market segments, particularly those most vulnerable to abuse.** 2. **The financial capability of consumers should be measured through a broad-based household survey that is repeated from time to time.** 3. **The effectiveness of key financial capability initiatives should be evaluated.** |
| **Description** | The World Bank Group plans to conduct a Financial Literacy Survey in 2012. The final report is expected to be published by mid 2012. |
| **Recommendation** | The World Bank Financial Literacy Survey should be repeated from time to time (every 3-5 years) in order to measure the status of financial capability of consumers as well as the impact of financial literacy initiatives. |

# Consumer Protection in the Non-Bank Credit Sector

### Overview

**The segment of non-bank credit institutions in Armenia is composed of different types of credit organizations, and pawnshops.** According to the Law on Credit Organizations, there are 5 groups of credit organizations: savings unions (that attract funds from their participants and provide funds to them); credit unions (similar to savings unions, but can also operate with non-members); leasing organizations; factoring organizations; and universal credit organizations. Credit organizations may be established in the form of limited liability company, joint stock company or commercial or non-commercial cooperative enterprise. As of December 2010, there were 27 universal credit organizations, 4 leasing companies and 1 credit union. The credit cooperative movement is currently non-existent in Armenia. However, some credit organizations are promoting the development of farmer cooperation and village credit union movements, which would support the issuance of collective loans or individual loans with group collateral, as well as contribute to the organization of financial and business literacy training.

**The number of non-bank credit institutions has been increasing over the recent years, especially the number of pawnshops.** Table 11 shows that the number of pawnshops has almost doubled in 3 years. There is also an important increase in the number of branch offices of non-bank credit organizations in the past 2 years, from 55 to 70.

*Table 11: Number of Non-Bank Credit Institutions*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Dec-2008** | **Dec-2009** | **Dec-2010** | **Sep-2011** |
| Number of non-bank credit organizations | 24 | 27 | 32 | 31 |
| o/w majority foreign capital | 10 | 10 | 10 | 8 |
| number of branch offices | n.a. | 55 | 60 | 70 |
| Number of pawnshops | 70 | 117 | 128 | 132 |
| **Total number of non-bank credit institutions** | **94** | **144** | **160** | **163** |
| Foreign exchange offices | 238 | 250 | 254 | 248 |
| Payment and settlement organizations | 11 | 10 | 10 | 9 |
| self-service terminals |  |  | 719 | 789 |
| branch offices |  |  | 22 | 22 |

*Source: Central Bank of Armenia*

**The full segment of non-bank credit institutions is regulated and supervised by the CBA.** After the approval of the Law on Credit Organizations in 2002 and the Law on Pawnshops and Pawnbrokerage in 2003, all microfinance organizations, credit companies and pawnshops were required to be licensed by the CBA. Currently all non-bank credit institutions are prudentially and financially supervised by a specialized division within the CBA’s Financial Supervision Department. Also, non-bank credit institutions are supervised from a market conduct angle by the Consumer Protection and Market Conduct Division that covers all financial institutions. Credit organizations and pawnshops are subject to comprehensive on-site inspections, similar to those for banks. However, the number of inspections to credit organizations has remained low (5 in 2008, 3 in 2009 and 6 in 2010).

**Some credit organizations are focused on mortgage and housing loans, including two organizations owned by the Central Bank.** However there are no major regulations regarding mortgage and housing loans. Also, despite the fact that the two credit organizations owned by the CBA[[6]](#footnote-6) only operate as second-tier financial providers, focused on refinancing of mortgage loans and providing funds to financial institutions, their current legal framework is the same as that for retail credit organizations.

**The credit organizations are not authorized to obtain deposits from the public.** According to a 2010 amendment to Regulation 14 on “Activities of Credit organizations; Prudential Standards for Activities of Credit Organizations”, it was clarified that credit and saving unions can attract funds only from natural persons who own at least 5 percent of the statutory capital of the credit organization. At the same time, leasing, factoring and universal credit organizations can attract funds only from individuals who own at least 5 percent of statutory capital or if the attracted funds are no less than AMD 30 million and the total capital of the credit organization is not less than AMD 1 billion. All these funds are not covered by the Deposit Guarantee Fund.

**The size of the NBCI sector has significantly increased in the past three years.** Table 12 shows that the total credit portfolio of credit organizations and pawnshops has almost doubled from December 2008 to September 2011, despite a slight decrease in 2009. The participation of loans to households in the credit organizations’ portfolio has also increased from 60 percent in December 2008 to 72 percent in September 2011. In terms of assets, the size of the credit organizations segment as percentage of GDP has increased from 1.8% in December 2008 to 2.5% in December 2011.

*Table 12: Size of the Non-Bank Credit Sector*

(expressed in AMD mln.)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **Dec-2008** | **Dec-2009** | **Dec-2010** | **Jun-2011** | **Sep-2011** |
| **Credit organizations** |  |  |  |  |  |
| Assets | 65239 | 75823 | 87195 | 103504 | 109660 |
| Total Loans | 58424 | 50316 | 59672 | 66927 | 70286 |
| loans to households | 35039 | 32990 | 42892 | 49798 | 50720 |
| **Pawnshops** |  |  |  |  |  |
| Total Loans | 3.92 | 5.15 | 9.93 | 10.42 | 11.58 |

*Source: Central Bank of Armenia*

**In terms of economic activities, credit organizations are increasing their participation in the agricultural sector.** The share of loans to the agricultural sector has remained the highest over the past 3 years, but increased from 21 to 27 percent from December 2009 to September 2011. The other two most important economic purposes are trade (21 percent) and mortgage (17 percent), as shown in Table 13.

*Table 13: Credit Organizations’ Loan Portfolio by Economic Activity*

(in percentage)

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Dec-2009** | **Dec-2010** | **Sep-2011** |
| Agriculture | 20.5 | 24.5 | 27.1 |
| Trade | 18.8 | 21.7 | 20.6 |
| Mortgage loans | 15.7 | 16.3 | 17.4 |
| Consumer loans | 8.9 | 8.3 | 10.2 |
| Industry | 6.7 | 7.3 | 8.5 |
| Construction | 10.5 | 5.9 | 4.2 |
| Transport and communication | 5.5 | 4.0 | 3.8 |
| Service | 4.0 | 4.1 | 3.7 |
| Others | 9.4 | 8.0 | 4.45 |

*Source: Central Bank of Armenia*

**Although the non-performing loan ratio for the credit organizations’ overall portfolio has remained below 5 percent since 2009, the ratios for mortgage and consumer loans are higher.** As of June 2011, the Central Bank of Armenia reported that the total share of non-performing loans for credit organizations was 3.1 percent.[[7]](#footnote-7) However, the ratio for consumer and mortgage loans was 6.5 percent.

**Around 70 percent of household loans from credit organizations are issued in domestic currency.** This percentage has remained stable since 2008, with exception of 2009 when the share of loans in domestic currency slightly decreased to 64 percent.

**The number of complaints received by the Financial System Mediator against non-bank credit institutions has increased, especially those against pawnshops.** The total number of complaints handled by the Financial System Mediator increased 70 percent from 2009 to 2010. The growth in the number of complaints against credit organizations in that period was slightly slower (63 percent), however the growth for pawnshops was significant (263 percent). The number of complaints against pawnshops that were not resolved through mediation also increased significantly, representing 36 percent of caseload in 2010 (as opposed to 18 percent in 2009), which is the second highest share (the banking sector represents 44 percent of caseload). The statistics shown in Table 14 reflect the need to pay further attention to the segment of pawnshops in Armenia.

*Table 14: Claims against Non-Bank Credit Institutions presented to the Financial System Mediator*

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  | **Dec-2009** |  |  | **Dec-2010** |  |
|  | Number | As % of total claims to FSM | As % of claims per type of entity | Number | As % of total claims to FSM | As % of claims per type of entity |
| **Credit organizations** |  |  |  |  |  |  |
| Total claims handled | 46 | 12.2 |  | 75 | 11.7 |  |
| Claims not resolved by mediation[[8]](#footnote-8) |  |  | 8.7 | 7 | 6.4 | 9.3 |
| Total reimbursement on claims  (billion AMD) |  | 6.8 |  | 3,280 | 11.2 |  |
| Cases settled down in favor of clients |  |  |  |  |  | 76.9 |
| **Pawnshops** |  |  |  |  |  |  |
| Total claims handled | 22 | 5.8 |  | 80 | 12.5 |  |
| Claims not resolved by mediation |  |  | 18.2 | 39 | 35.5 | 48.8 |
| Total reimbursement on claims  (billion AMD) |  | 0.6 |  | 5,667 | 19.4 |  |
| Cases settled down in favor of clients |  |  |  |  |  | 66.7 |

*Source: Financial System Mediator*

**There are three industry associations that include non-bank credit institutions, and are promoting different initiatives related to consumer protection and financial literacy.** The ***Union of Credit Organizations of the Republic of Armenia (UCO)*** is a voluntary union of credit organizations established on July 2008, with the mission of fostering the development of the Armenian financial system through a more efficient and widespread outreach of credit organizations. UCO has engaged in activities with support of the MicroFinance Center of Poland to promote financial education in Armenia, and has endorsed the Smart Campaign principles on client protection, and will bring international experts to assess the implementation of these principles in Armenian credit organizations. The ***Association of Mortgage Market Participants of Armenia (AMMP)*** was founded in March 2006 and includes representatives of banks, insurance companies, credit organizations, realtors and constructors. AMMP is working closely with the CBA in the preparation of the draft legislation on mortgage credit, and is planning to engage in a public awareness campaign first to receive comments from consumers about the legislation and then to disseminate the consumer rights and responsibilities included in the new law. The ***Consulting Center of Credit Organizations of Armenia (CCCO)*** provides legal advice to a reduced but representative number of pawnshops, and also plays a counseling role in the case of consumer complaints against pawnshops.

### Comparison with Good Practices for Non-Banking Credit Institutions

|  |  |  |
| --- | --- | --- |
| **SECTION A** | | **CONSUMER PROTECTION INSTITUTIONS** |
| **Good Practice A.1** | | ***Consumer Protection Regime***  **The law should provide clear consumer protection rules in the area of non-bank credit institutions, and there should be adequate institutional arrangements to ensure the thorough, objective, timely and fair implementation and enforcement of all such rules, as well as of sanctions that effectively deter violations of these rules.**   1. **There should be specific statutory provisions, which create an effective regime for the protection of consumers of non-bank credit institutions.** 2. **There should be a government authority responsible for implementing, overseeing and enforcing consumer protection in the area of non-bank credit institutions.** 3. **The supervisory authority for non-bank credit institutions should have a register which lists the names of non-bank credit institutions.** 4. **There should be coordination and cooperation among the various institutions mandated to implement, oversee and enforce consumer protection and financial sector regulation and supervision.** 5. **The law should provide for, or at least not prohibit, a role for the private sector, including voluntary consumer associations and self-regulatory organizations, in respect of consumer protection in the area of non-bank credit institutions.** |
| **Description** | | Legal Framework  Overall, there is a good level of consumer protection in the non-bank credit sector of Armenia, but there are areas to be improved, especially regarding pawnshops.  Regarding dispute resolution mechanisms, there are two important pieces of legislation that apply to all non-bank credit institutions. Regulation 8/04 “*Minimum Principles and Requirements on Internal Complaint Handling Processes in Financial Institutions*” includes general principles on complaints handling, as well as minimum requirements for both the reception of complaints and the final response to the complaints by the financial institution. In turn, the *Law on the Financial System Mediator* includes provisions on requirements on dispute handling processes within a financial institution, consumers’ right to apply to the Mediator, requirements on submission of claims to the Mediator, procedures to examine or reject a claim by the Mediator, among others.  In terms of consumer disclosure, a key piece of legislation is Regulation 8/05 “*Procedure, Terms, Forms and the Minimum Requirements for Communication Between Bank and Depositor, Creditor and Consumer*”. This includes several rules regarding disclosure of information from all types of non-bank credit institutions to consumers before, during and after a contract is signed. Also relevant is Regulation 8/03 “*Information Publication by Banks, Credit Organizations, Insurance Companies, Insurance Brokers, Investment Companies, Central Depository and Payment and Settlement Organizations Implementing Money Remittances*”, which refers to materials being published in paper or electronically by a financial institution. However, both Regulations apply to consumer credits as defined in the Law on Consumer Credits.  Regarding legislation of specific financial products, the *Law on Consumer Credits* provides clear consumer protection rules regarding consumer loan agreements granted by all types of non-bank credit organizations (besides banks). This Law covers areas like information to be included in contract agreements, consumer rights, calculation of annual percentage rate (APR), advertisement and consumer communications, as well as creditors’ liability for law infractions.  However, there are no similar provisions that apply to mortgage loans or even consumer loans for amounts below AMD 100,000, which are commonly offered by credit organizations and pawnshops. Also, some general-purpose loans might be granted to clients that are self-entrepreneurs or farmers. Given their needs, these loans could be conceived as consumer loans, but given the main economic activity of the client and that part of the funding could be used to, for example, purchase goods that could be used for self-consumption and business purposes (e.g. crops, seeds, cattle, etc.), they would be considered as business loans, and would not be covered by the provisions of the Law on Consumer Credits and related Regulations.    **Authority for Consumer Protection in the Non-bank Credit Sector**  Regarding overall mandate to regulate and supervise consumer protection issues in the financial sector in general and in the non-bank credit sector in particular, the ***Law on the Central Bank of the Republic of Armenia*** (CBA)states in Article 5 that one of the objectives of the CBA is to ensure essential conditions for the protection of rights and lawful interests of consumers of the financial system.  The Central Bank of the Republic of Armenia ("CBA") regulates and supervises all types of financial institutions, including microfinance organizations (which, as explained in the Overview had to transform into credit organizations under the Law on Credit Organizations), and pawnshops, both from a prudential and a market conduct perspective. In this respect, in 2007 the CBA established the Consumer Protection and Market Conduct (CPMC) Division within the Financial System Stability and Development Department. The focus of this division is the creation and improvement of legal framework, establishment of consumer rights protection infrastructure, improvement of financial literacy of population and establishment of necessary consumer protection supervision framework.  Currently, the CPMC Division is responsible for all off-site supervisory activities related to consumer protection rules, especially monitoring disclosure requirements on websites of financial institutions, including credit organizations and pawnshops. At the same time, on-site supervisory activities of non-bank credit institutions are led by the CBA’s Financial Supervision Department, specifically the Credit Organizations and Pawnshops Supervision (COPS) Division. If resources allow, members of the CPMC Division join on-site inspections. When members of the CPMC Division do not join the COPS Division supervision due to their limited resources (since there are only four employees working in the CPMC Division), the COPS supervisors still check the consumer protection requirements and are supposed to report back to the CPMC Division to discuss further actions if breaches of the consumer protection requirements are found. The COPS supervisors base their work on three manuals prepared by the regulatory and consumer protection departments:   * on-site supervision manual * off-site supervision manual * market conduct supervision manual   Despite the fact that there are rules that guide the on-site and off-site supervision of non-bank credit institutions, the institutional capacity to undertake such supervisory activities in credit organizations and pawnshops is very limited, specially taking into account the size of the market. As of September 2011 there are 31 credit organizations and 132 pawnshops operating in Armenia, whereas the COPS Division only has 10 staff –and the CPMC Division only has 4 staff to cover all financial institutions. The COPS Division undertakes 5 on-site inspections to credit organizations on average per year, whereas they will just start conducting inspections to pawnshops in 2012.  While the supervisors have extensive powers in their inspections, some useful supervisory tools such as mystery shopping or investigations are not allowed by the Armenian law. As a result the enforcement of non-documentable requirements (one-on-one sales practices, oral communication with clients, etc.) cannot be effectively imposed.  Register of Non-Bank Credit Institutions  The CBA’s website has a “Financial System and Control” section, which includes a subsection that lists all supervised financial institutions, grouped by financial segment. Each list includes the full name of the financial institution, as well as the name of the Head, the address and the phone number of each institution.  Inter-institutional Coordination  The CBA has Memoranda of Understanding signed with the Financial Services Mediator and with the Competition Commission (two other authorities besides the CBA with impact on consumer protection in the area of financial services). The cooperation between the CBA and the Mediator seems to be functioning rather properly while the cooperation with the Competition Authority seems more formal and could be improved.  Role of Private Sector  The Armenian legislation does not prohibit a role for the private sector, including consumer organizations and industry associations. There are three industry associations operating with non-bank credit institutions, namely the Union of Credit Organizations of the Republic of Armenia (UCO), the Association of Mortgage Market Participants of Armenia (AMMP), and the Consulting Center of the Credit Organizations of Armenia (CCCO). All of them are active in the area of consumer protection and financial education, either by providing comments to draft regulations or legislation, conducting studies on relevant issues, and organizing financial education activities. Meanwhile, consumer organizations seem to be quite weak and unable to play a strong role in the protection of consumers of financial services. |
| **Recommendation** | | The financial consumer protection legal regime covering non-bank credit institutions requires some improvement, so that there are consumer protection provisions covering not only consumer credits but also other financial products offered by credit organizations and pawnshops. Special consideration should be given to loans offered to self-entrepreneurs and farmers.  It is also recommended that the CBA furthers the consultation process of the draft law on mortgage credit, including consumer organizations, and that soon after this process ends and relevant comments are addressed, the draft law is submitted to Parliament for approval.  The CBA should strengthen its capacity to deal with market conduct and consumer protection regulation and supervision of all types of non-bank credit institutions, starting by increasing the number of staff working at the CPMC Division, and continuing by evaluating the setup of a separate CPMC division at the same level of the Financial Supervision Department.  The CBA should also make further efforts in the area of competition and analyze more profoundly the level of competition in the financial sector, especially regarding credit organizations. |
| **Good Practice A.2** | | ***Code of Conduct for Non-Bank Credit Institutions***   1. **There should be a principles-based code of conduct for non-bank credit institutions that is devised in consultation with the non-bank credit industry and with relevant consumer associations, and that is monitored by a statutory agency or an effective self-regulatory agency.** 2. **If a principles-based code of conduct exists, it should be publicized and disseminated to the general public.** 3. **The principles-based code should be augmented by voluntary codes on matters specific to the industry (credit unions, credit cooperatives, other non-bank credit institutions).** 4. **Every such voluntary code should likewise be publicized and disseminated.** |
| **Description** | | Currently there is no code of conduct developed by non-bank credit institutions —with input of consumer associations— regarding consumer protection matters.  However, there are three CBA regulations that establish general principles of conduct regarding specific consumer protection issues, applicable to credit organizations:   * Regulation N 8/03 on Information Disclosure   Article 4 lists 9 general principles on information publication, including: precision and reliability, timelines and completeness, simplicity and understandability, use of Armenian language, legibility, presentation that allows consumers to easiliy find information of interest, content that allows consumers to understand a product and its suitability.   * Regulation N 8/04 on Customer Complaints   Article 5 indicates 4 general principles regarding information on complaints disclosed to consumers: (i) simple and understandable for a representative customer, and not confusing, awkward or misleading; (ii) presented in Armenian; (iii) easy to read and visibly displayed; (iv) a representative customer shall be a 30-year-old individual with secondary education but no training or work experience in finance or economics.   * Regulation N 8/05 on Consumer Communications   Article 4 includes six general principles covering: use of Armenian language unless agreed otherwise, use of terms and expressions that are easy to understand and not misleading or confusing, presentation of information in a readily understandable manner, disclosure of information that allows clients to understand the nature of the product and the risks connected with it, non-withhold of material information, and non-provision of false, unreliable or incomplete information.  Regulation 8/03 would not be applicable to pawnshops, but Regulations 8/04 and 8/05 are applicable to all types of non-bank credit institutions.  Some credit organizations that are affiliated to international microfinance institutions are planning to develop internal codes of conduct, mostly as part of strategies rolled out by their international partners.  In terms of self-regulatory activities, there is some initial interest to develop conduct standards by the three industry associations. The Union of Credit Organizations of the Republic of Armenia (UCO) has endorsed the Smart Campaign’s Client Protection Principles and will bring international experts to assess the implementation of these principles in Armenian credit organizations. The Association of Mortgage Market Participants of Armenia (AMMP) has a code of ethics but does not go into detail of consumer protection issues, whereas the Consulting Center of the Credit Organizations of Armenia (CCCO) has not developed any type of code of conduct for pawnshops. |
| **Recommendation** | | The industry associations should develop codes of conduct on consumer protection matters, which could build on the general principles already included in the three CBA regulations mentioned above. However, the codes should go beyond the characteristics of the information communicated or disclosed to consumers, and also include basic standards on business practices, complaints handling, ethical behavior, among other areas.  A starting point for the industry associations could be the promotion of the Client Protection Principles developed by the Smart Campaign (the core principles relate to appropriate product design and delivery, prevention of overindebtedness, transparency, responsible pricing, fair treatment of clients, privacy of client data, and complaint resolution mechanisms), which has already been started by UCO. Later, UCO could develop a full code of conduct and implement a system to monitor its enforcement, including mechanisms for consumers to complaint against violations of the code, and for the association to sanction its members for violating the code. This example should be followed by CCCO in the pawnshop segment. |
| **Good Practice A.3** | | ***Other Institutional Arrangements***   1. **Whether non-bank credit institutions are supervised by a financial supervisory agency, the allocation of resources between financial supervision and consumer protection should be adequate to enable their effective implementation.** 2. **The judicial system should ensure that the ultimate resolution of any dispute regarding a consumer protection matter with a non-bank credit institution is affordable, timely and professionally delivered.** 3. **The supervisory authority for non-bank credit institutions should encourage media and consumer associations to play an active role in promoting consumer protection regarding non-bank credit institutions.** |
| **Description** | | Allocation of resources to financial supervision and consumer protection  All non-bank credit institutions are prudentially and financially supervised by the specialized COPS Division within the CBA’s Financial Supervision Department. Supervisors use a combination of on-site and off-site supervision based on the yearly plan of supervision that takes into account key risk factors such as the size of the institution, its retail activities as well as complaints against the institution. On-site and off-site supervision functions are responsibility of the same COPS Division and in most cases both on-site and off-site supervision of a non-bank credit institution are conducted by the same supervisor or group of supervisors to ensure fluid communication and interaction. Credit organizations and pawnshops are subject to comprehensive risk-based on-site inspections. However, the number of inspections to credit organizations has remained low (5 in 2008, 3 in 2009 and 6 in 2010), whereas inspections to pawnshops are just going to start in 2012, mostly due to the limited capacity of the CBA.  Also, non-bank credit institutions are supervised from a market conduct angle by the CPMC Division within the CBA’s Financial Supervision Department, which covers all financial institutions. The CPMC Division is responsible of off-site market conduct/ consumer protection supervisory activities for all financial institutions, including credit organizations and pawnshops. If resources allow, members of the CPMC Division join on-site inspections, which are led by the COPS Division (the CPMC Division cannot start an on-site inspection on its own). When this support cannot materialize due to CPMC’s limited resources (since there are only four employees working in the CPMC Division), the COPS supervisors still check the consumer protection requirements and are supposed to report back to the CPMC Division to discuss further actions if breaches of the consumer protection requirements are found.  Any infringements of consumer protection regulations identified during the inspection are included in the inspection report and presented, together with the proposed action by the CBA, to the licensing and penalty committee of the CBA. The committee includes the senior managers of the Regulation, Supervision, Legal and Financial System Stability & Development departments and is the final authority at the CBA to assess penalties for regulatory infringements. The number of cases related to consumer protection rules infringement has been steadily growing and is now close to 40% of all cases where a penalty is assessed by the CBA. It is worth noting that there is no Board member responsible for consumer protection or market conduct.  In terms of resources allocated for financial supervision versus consumer protection, it is worth to note that a total of 10 staff work in the COPS Division and only 4 staff work in the CPMC Division covering all types of financial institutions. This indicates that the CPMC Division is understaffed to undertake all the responsibilities under its purview, including consumer protection regulation and on-site and off-site supervision, as well as financial education.  Judicial System  The Office of the Financial System Mediator, which is an independently-managed institution founded by the Central Bank of Armenia, is responsible for resolution of disputes between individual consumers and non-bank credit institutions. However, consumers always retain their right to bring their complaint to the court if they are not satisfied with the decision of the Mediator. Consumers might also go to a court directly without first lodging their complaint with the Mediator (or while the examination process is ongoing). If an arbitration agreement was signed along with a credit agreement, the dispute can be taken to an arbitration tribunal.  Consumer Organizations  There are few consumer organizations that are slightly active in the field of financial services and products. For example, in 2011 the consumer NGO Protection of Consumers’ Rights (PCR) implemented the project “Awareness raising initiative on the work with Credit Organizations among consumers in 4 communities of Tavush and Vayots Dzor Marzes”, with funding of Counterpart International, Armenia. PCR conducted a survey with participation of farmers and support of key credit organizations and banks operating in the regions of Tavush and Vayots Dzor. The results revealed low levels of awareness of consumer rights and available financial products. Thus, PCR plans to launch a farmers awareness campaign, organizing group-consultations in Armenian regions and round tables in Yerevan with participation of credit organizations and banks, as well as government authorities.  NGOs also receive several types of consumer inquiries and complaints, in many cases from consumers that do not know much about the Financial System Mediator or do not know how to approach it, or whose cases would not be handled by the Mediator. However, there is no statistical information collected by NGOs that could show the number of complaints received that relate to financial sector issues or how they were handled by the NGO.  Media  There is no much freely and publicly available information in media outlets for the average population. Some financial sector news is covered by the main printed and online newspapers and websites, as well as some information on personal finance. However most of analytical and comparative information is only available by subscriptions. Also, the vast majority of information available does not cover non-bank credit institutions. |
| **Recommendation** | | A Board member should be assigned with responsibilities on consumer protection and market conduct, preferably along with the responsibility on financial education.  The capacity of the CPMC Division should be strengthened so that it can properly undertake all its responsibilities on consumer protection regulation and on-site and off-site supervision, as well as financial education. Also, the CPMC Division should spin off the Financial Stability Department and constitute a separate CPMC Department, so that it has similar supervisory and regulatory powers as the Financial Supervision divisions. At the same time, an institutional needs assessment should be conducted to clearly identify the resources needed to implement all functions assigned to the CPMC Department (which should also include responsibility for inter-institutional and international cooperation, as well as financial education). This assessment should provide the needed inputs to prepare a long-term capacity building program within the CBA.  The CBA along with financial industry associations should cooperate to develop financial education training for judges that cover consumer disputes in financial services.  The CBA should support the strengthening of consumer organizations, starting by coordinating training programs for members of these organizations, so that they better understand financial services. The CBA should also consider initiatives where the consumer organizations could support the CBA’s work on consumer protection and financial education, such as by frequently reporting on consumer complaints in financial services, conducting mystery shopping, distributing financial education materials, organizing consumer roundtables or focus groups, etc.  Also the CBA, along with other government authorities, should identify and facilitate international technical and financial cooperation to strengthen consumer advocacy associations, especially in financial sector issues. At the same time, the CBA should support the development of guidelines for evaluation of the performance of consumer organizations.  The CBA should strengthen its relationship with the media, for example, by coordinating financial education activities targeted to journalists. Also the CBA should prepare press statements and articles that summarize findings of reports that relate to consumer finance, summarize and explain in simple terms draft regulations that are related to consumer protection issues. The media could play a key role in disseminating financial education and consumer awareness messages to the overall population. |
| **Good Practice A.4** | | ***Registration of Non-Bank Credit Institutions***  **All financial institutions that extend any type of credit to households should be registered with a financial supervisory authority.** |
| **Description** | | After the approval of the Law on Credit Organizations in 2002 and the Law on Pawnshops and Pawnbrokerage in 2003, all microfinance organizations, credit companies and pawnshops have been required to be licensed by the CBA. Article 3 of the Law on Credit Organizations also clearly establishes that no person shall engage in activities prescribed in this law without a proper license—otherwise, a legal liability shall be imposed. The Legal Department is responsible for licensing all types of financial institutions in Armenia.  According to the Law on Credit Organizations (Article 6), the CBA shall keep a register of the credit organizations licenses issued, which shall be available to the public. The Law on Pawnshops and Pawnbrokerage (Article 13) also requires the CBA to run a register of licenses issued to pawnshops. |
| **Recommendation** | | No recommendation. |
| **SECTION B** | | **DISCLOSURE AND SALES PRACTICES** |
| **Good Practice B.1** | | ***Information on Customers***   1. **When making a recommendation to a consumer, a non-bank credit institution should gather, file and record sufficient information from the consumer to enable the institution to render an appropriate product or service to that consumer.** 2. **The extent of information the non-bank credit institution gathers regarding a consumer should:** 3. **be commensurate with the nature and complexity of the product or service either being proposed to or sought by the consumer; and** 4. **enable the institution to provide a professional service to the consumer in accordance with that consumer’s capacity.** |
| **Description** | | There is no regulation that requires credit organizations and pawnshops to gather, file and record information from the consumer that would enable these institutions to offer a financial product or service that is appropriate to such consumer. |
| **Recommendation** | | A regulation covering this Good Practice should be issued to cover all non-bank credit institutions and, most preferably, to cover all banking products as well. It is important that this regulation goes beyond the requirement to check the credit history of clients. Retail sales officers should gather information on the customers’ incomes and expenses; their individual and household financial situation, expectation and goals; their risk aversion; and in general their financial needs so that the product offered to the consumer is consistent with the consumer’s portfolio. |
| **Good Practice B.2** | | ***Affordability***   1. **When a non-bank credit institution makes a recommendation regarding a product or service to a consumer, the product or service it offers to that consumer should be in line with the need of the consumer.** 2. **Sufficient information on the product or service should be provided to the consumer to enable him or her to select the most suitable and affordable product or service.** 3. **When a non-bank credit institution offers a new credit product or service that significantly increases the amount of debt assumed by the consumer, the consumer’s credit worthiness should be properly assessed.** |
| **Description** | | Regulation 8/05, in its Chapter 4 on Communication between Company and Client before Execution of Agreement, requires all financial institutions to orally explain the nature, type, material terms and costs related to a financial service the client is interested in; give the client an opportunity and sufficient time to be acquainted with the provisions of the agreement before its execution; orally present the list of other equivalent services Client is interested in.  Non-bank credit institutions are not required to ensure that a financial product or service offered to a consumer is in line with the need of the consumer, and to do a creditworthiness assessment.  In practice, credit organizations have incorporated creditworthiness assessment within their internal credit manuals. However, neither the credit bureau nor the credit registry has credit information on pawnshop borrowers. Since pawnshops are not part of the credit reporting system, they have a real limitation to undertake a good creditworthiness assessment. Some years ago, CCCO was involved in a project to create a credit bureau for pawnshops, but this project never took off, especially due to lack of funding. |
| **Recommendation** | | Regarding this good practice, it is important to fully understand whether the product would be used for consumer or entrepreneurial purposes, especially in cases of sole entrepreneurs and farmers, and that the retail sales officer fully explains these differences.  The requirements under Regulation 8/05 are a good start, but in general the Law should clearly establish that a financial institution should be responsible for offering a product that is suitable to the needs of a consumer.  Given that most of the requirements of Regulation 8/05 relate to oral communications, it is important to provide the CBA with supervisory tools that allow them to enforce such requirements, such as through mystery shopping.  In order to ensure adequate creditworthiness assessments of borrowers, which include their full credit history and exposure, pawnshops should access and provide information to the credit bureau and the credit registry. |
| **Good Practice B.3** | | ***Cooling-off Period***   1. **Unless explicitly waived by the consumer in writing, a non-bank credit institutions should provide the consumer a cooling-off period of a reasonable number of days immediately following the signing of an agreement between the institution and the consumer.** 2. **On his or her written notice to the non-bank credit institution during the cooling- off period, the consumer should be permitted to cancel or treat the agreement as null and void without penalty to the consumer of any kind.** |
| **Description** | | The Law on Consumer Credit provides for a cooling-off period of 7 days. According to Article 9, the "consumer shall be entitled to unilaterally cancel credit agreement without any substantiation within 7 days after its signature, unless a longer period is established by credit agreement (period of contemplation). In that event, consumer shall pay interest to creditor for the use of credit, which shall be accrued pursuant to annual percentage rate established under credit agreement. No other compensation shall be required from consumer relating to termination of credit agreement."  However there is no cooling-off period for mortgage loans. |
| **Recommendation** | | The CBA should make sure to include a cooling-off period provision for mortgage loans in the draft law on mortgage credit. |
| **Good Practice B.4** | | ***Bundling and Tying Clauses***   1. **As much as possible, non-bank credit institutions should avoid the use of tying clauses in contracts that restrict the choice of consumers.** 2. **In particular, whenever a borrower is required by a non-bank credit institution to purchase any product, including an insurance policy, as a pre-condition for receiving a loan, the borrower should be free to choose the provider of the product and this information should be made known to the borrower.** 3. **Also, whenever a non-bank credit institution contracts with a merchant as a distribution channel for its credit contracts, no exclusionary dealings should be permitted.** |
| **Description** | | According to the Law on Credit Organizations (Article 14.1), when signing a credit or other agreement with a customer, the credit organization may not force him to sign a contract on provision of additional services by the credit organization or its affiliated parties. In case the credit organization violates this provision, or provides evidently fake or confusing information, it shall be liable in the manner established by this Law.  There is no similar provision in the Law on Pawnshops.  There is no legal provision dealing with disclosure on the nature of the relationship between the non-bank credit institution and any insurance company (if it is operating as an agent, for example). |
| **Recommendation** | | Although in practice it seems that customers are free to choose from a list of product providers presented by the non-bank credit institutions, it is important that the CBA conduct specific monitoring activities of these practices, to ensure that this rule is met, and that consumers are also allowed to present their own insurance policies from other regulated company.  In many countries, bundled products are offered to consumers, especially low-income consumers, and they do not fully understand that the bundled product requires additional monthly payments. So it is also important that information on the cost of the insurance premiums is well disclosed to the consumer.  The CBA could also play a more active role in this area, by undertaking studies on the level of bundling and tying practices and the effect of these practices in the cost of credit offered by non-bank credit institutions. |
| **Good Practice B.5** | ***Key Facts Statement***   1. **Non-bank credit institutions should have a Key Facts Statement for each type of account, loan or other products or services.** 2. **The Key Facts Statement should be written in plain language, summarizing in a page or two the key terms and conditions of the specific financial product or service, and allowing consumers the possibility of easily comparing products offered by different institutions.** |
| **Description** | There is no requirement in Armenia for non-bank credit institutions to provide consumers with a document similar to a Key Facts Statement.  However, some key principles of disclosure of information to consumers are included in Regulation 8/03, which deals with ‘publications’ prepared by financial institutions including credit organizations (i.e. materials disseminated in the press, other media, internet, newsletters, posters). For example, Article 4 indicates that information should be precise and reliable; opportune and sufficient; easily understandable and without including intricate, confusing or misleading words, or expressions that are highly technical; easy to understand and to visualize. In addition, Chapter 9 provides a detailed list of minimum information that should be disclosed to a client through informational bulletins (newsletters) and/or websites, related to credits, payment cards, money transfers, among others. |
| **Recommendation** | The CBA should require non-bank credit institutions to provide consumers with standardized key facts statements that allow them to easily understand and compare offers by different financial service providers. The key facts statements could be first drafted by the industry associations (AMMP, CCCO, UCO), taking into account the most important concepts for each type of basic retail financial product they offer. These formats should be tested using consumer research tools such as focus groups or interviews, and revised, approved and incorporated into regulations by the CBA.  The key facts statements should have a standardized format for every basic retail financial product, which would have to be used by all types of providers of such product (e.g. for Lombard loans, all banks and non-bank credit institutions should use the same format).  The key facts statements should include information on interest rates, commissions, fees and other charges (in this area, the CBA should also provide specific guidance on how to calculate interest rates for mortgage, Lombard and agricultural loans, so that all financial institutions use the same standard method of calculation when disclosing the information in the key facts statement for each of these types of loans). The key facts statements should also include information on risks and responsibilities, such as legal obligations and sanctions the consumer may face in case of breach of contract. For example, Regulation 8/03 (Article 48, item 13) already indicates that information on credits published in newsletters and websites should include warnings about possible negative consequences for a borrower that does not pay obligations on time, in a prominent place and with different typewriting (e.g. “Warning: if you do not pay your interests and principal on time, this information will be included in the credit register”). A similar type of warning should be included in the key facts statements. |
| **Good Practice B.6** | | ***Advertising and Sales Materials***   1. **Non-bank credit institutions should ensure that their advertising and sales materials and procedures do not mislead customers.** 2. **All advertising and sales materials should be easily readable and understandable by the general public.** 3. **Non-bank credit institutions should be legally responsible for all statements made in advertising and sales materials (i.e. be subject to the penalties under the law for making any false or misleading statements).** |
| **Description** | | Chapter 6 of Regulation 8/03 deals with advertising by financial institutions including credit organizations. For example, Article 36 states that advertising should not include misleading information, which may create a wrong impression about the financial situation of a financial institution, its reputation or its legal status. Chapter 6 also indicates that information on a financial product or service should be easy to understand, to read (e.g. using a large enough font size) and to differentiate (e.g. using a design that allows distinguishing one service from another). Chapter 9 includes minimum requirements of information to be disclosed in bulletins (e.g. booklets, leaflets) and websites, differentiated by type of financial product.  However, Regulation 8/03 neither indicates that financial institutions are legally responsible for statements made in advertising and sales materials, nor includes penalties or sanctions against financial institutions that do not comply with the Regulation. It is also worth noting that Regulation 8/03 does not apply to pawnshops.  The Law on Consumer Credit (Article 16) also states that any advertisement, announcement, proposal or offer shall not be confusing, complicated or misleading. It also requires that any advertisement that includes a reference to the amount of interest (or any other payment or cost related to the extension of credit) also include a reference to the annual percentage rate; if this is not possible to do in a reasonable manner, an example of calculation shall be presented. According to Article 3, this Law is applicable to credit organizations and pawnshops, but only for consumer loans above AMD 100,000 (and below AMD 10,000,000).  The Law on Advertising includes general provisions that aim to prevent advertisements from misleading consumers, spreading unreliable information that may cause damage to firms or consumers, and containing disrespectful information (Article 1). Regarding financial services in particular, the Law prohibits any institution from publishing an advertisement dealing with financial products or services unless the institution has already been licensed to provide such services (Article 16). The authority responsible for enforcing this law is the Competition Commission.  Chapter 7 of Regulation 8/03 includes a requirement for credit organizations to publish updated information on loans and other services provided to consumers, in a separate booklet for each product or service (or in separate sections of a booklet), and to make it available to the public in the headquarters, branches and representative offices of credit organizations. This information shall include interest rates, commissions, fees, maturity, collateral, repayment conditions, penalties and any other essential conditions as well as warnings for consumers. Such information shall be updated whenever a change occurs. |
| **Recommendation** | | The CBA should amend Regulation 8/03 to include provisions that indicate that financial institutions are legally responsible for statements made in advertising and sales materials, and that indicate penalties or sanctions against financial institutions that do not comply with the Regulation. Similar provisions should be included in a regulation applicable to pawnshops; as well as those provisions in Chapter 6 that, for example prohibit the use of misleading information and require credit organizations to use information that is easy to understand, to read and to differentiate.  The CBA should strengthen its supervision of advertising practices by non-bank credit institutions in particular, paying special attention to misleading information that might be given to consumers through the use of teaser interest rates, nominal interest rates, or any other similar type of information. The CBA should consider developing manuals or guidelines for market monitoring, including monitoring of advertising and website information, which could be first used by the consumer protection unit staff and later by other institutions that could be commissioned by the CBA (e.g. UCO, AMMP, CCCO, consumer associations). |
| **Good Practice B.7** | | ***General Practices***  **Specific rules on disclosure and sales practices should be included in the non-bank credit institutions’ code of conduct and monitored by the relevant supervisory authority.** |
| **Description** | | As mentioned in the description of Good Practice A.2, the regulations 8/03 and 8/05 include general principles of conduct regarding publication of information and consumer communications. Both apply to credit organizations, but 8/05 does not apply to pawnshops.  Chapter 3 of Regulation 8/03 lists 9 general principles on publication of **information by credit organizations,** including: precision and reliability, timeliness and completeness, simplicity and understandability, use of Armenian language, legibility, presentation that allows consumers to easiliy find information of interest, content that allows consumers to understand a product and its suitability, adequate presentation of comparative information, and presentation of risks together with expected benefits related to a financial product or service. Regarding simplicity, this Chapter mentions that the information should be understandable by a ‘representative consumer’, whch is defined as a 30 year old individual that has secondary education and no financial education or experience. Regulation 8/03 also includes requirements on information that needs to be included in a credit organization’s website and in its premises, as well as specific information on financial products and services provided by credit organizations, when such information is published in newsletters or online. This Regulation is applicable to credit organizations but not to pawnshops.  Chapter 3 of Regulation 8/05 includes six general principles on communication with consumers: use of Armenian language unless agreed otherwise, use of terms and expressions that are easy to understand and not misleading or confusing, presentation of information in a readily understandable manner, disclosure of information that allows clients to understand the nature of the product and the risks connected with it, non-withhold of material information, and non-provision of false, unreliable or incomplete information. In addition, Chapter 4 includes a list of minimum information that needs to be provided to the consumer before execution of a **consumer credit contract agreement**. Most of the requirements refer to provision of oral information (complementing the Law on Consumer Credit that requires financial institutions to give a written copy of the credit agreement to the consumer). This Chapter also indicates that clients should be given enough time to be acquainted with the provisions of the contract, but does not explicitly allow for consumers to take the contract out of the premises to study it more thoroughly. This Regulation is applicable to credit organizations and pawnshops.  At the industry level, UCO is the only association that has endorsed a code of conduct (the Smart Campaign’s Client Protection Principles), and it is now in the early stages of developing a mechanism to ensure compliance by its members. The Client Protection Principles include a Transparency principle that reads: “Providers will communicate clear, sufficient and timely information in a manner and language clients can understand so that clients can make informed decisions. The need for transparent information on pricing, terms and conditions of products is highlighted.” The principle on Fair and respectful treatment of clients emphasizes the need for providers to detect and correct abusive treatment by staff and agents, particularly during loan sales. |
| **Recommendation** | | The CBA should require that all types of financial services contract for consumers, farmers and self-entrepreneurs are well explained, are available for consumers to study it thoroughly even outside the premises if needed, and that the content is written with a legible font size. These minmum requirements should also be applicable to pawnshops.  The CBA should allow for the use of mystery shopping to monitor compliance with disclosure and selling practices, to find out mechanisms that might be used to not comply with legal requirements.  UCO (and other financial industry associations) should also consider using mystery shopping as a tool to monitor compliance with the client protection principles, in addition to self-assessment reports by its members or reports conducted by UCO. AMMP and CCCO should also consider endorsing and enforcing client protection codes of conduct by their members.  The industry associations should also consider developing standard contract clauses in order to improve consumers’ familiarity with, and understanding of, contract terms and conditions. The use of standard contract clauses for key issues would help minimize the use of clauses that are abusive or hard to understand. The Civil Code under Article 443 allows for the use of standard contract terms. |
| **Good Practice B.8** | | ***Disclosure of Financial Situation***   1. **The relevant supervisory authority should publish annual public reports on the development, health, strength and penetration of the non-bank credit institutions, either as a special report or as part of the disclosure and accountability requirements under the law that governs these.** 2. **Non-bank credit institutions should be required to disclose their financial information to enable the general public to form an opinion regarding the financial viability of the institution.** |
| **Description** | | The CBA publishes an annual Financial Stability Report, which includes a brief section on the development, health and strength of credit organizations, as well as a summary of the households’ exposure with credit organizations and pawnshops. The CBA also includes a section on credit organizations in its report on “The financial system of Armenia. Development, Supervision, Regulation.”  The Law on Credit Organizations requires them to prepare, publish and submit to the CBA financial statements as required by Armenian laws and regulations, and in accordance with the Armenian Law on Accounting. More specifically, credit organizations are required to publish: i) their annual financial statements and audit reports in the press within six months after the end of the financial year; ii) their quarterly financial statements before the 15th day of the month following each quarter; iii) periodic information on their activities, according to procedures and periodicity stated by the CBA (Article 17). Regulation 8/03 specifies that credit organizations should publish their annual financial reports, audit reports and interim financial statements in a newspaper with at least 3,000 copies (Chapter 5) and on their website (Chapter 4).  The Law on Pawnshops and Pawnbrokerage (Article 15) requires pawnbrokers to submit to the CBA annual financial statements and independent audit report on such statements following accounting legislation, until the 30th of April of the year subsequent to the year under review. Also, pawnshops are required to publish the annual financial statements in a newspaper with at least 1,000 issue copies. |
| **Recommendation** | | No recommendation. |
| **SECTION C** | **CUSTOMER ACCOUNT HANDLING AND MAINTENANCE** |
| **Good Practice C.1** | ***Statements***   1. **Unless a non-bank credit institution receives a customer’s prior signed authorization to the contrary, the non-bank credit institution should issue, and provide the customer with, a monthly statement regarding every account the non-bank credit institution operates for the customer.** 2. **Each such statement should: (i) set out all transactions concerning the account during the period covered by the statement; and (ii) provide details of the interest rate(s) applied to the account during the period covered by the statement.** 3. **Each credit card statement should set out the minimum payment required and the total interest cost that will accrue, if the cardholder makes only the required minimum payment.** 4. **Each mortgage or other loan account statement should clearly indicate the amount paid during the period covered by the statement, the total outstanding amount still owing, the allocation of payment to the principal and interest and, if applicable, the up-to-date accrual of taxes paid.** 5. **A non-bank credit institution should notify a customer of long periods of inactivity of any account of the customer and provide reasonable final notice in writing to the customer if the funds are to be transferred to the government.** 6. **When a customer signs up for paperless statements, such statements should be in an easy-to-read and readily understandable format.** |
| **Description** | The Law on Consumer Credit indicates that financial institutions should provide consumers, at least monthly, with a written statement of their consumer credit product, through postal mail, except in cases when the consumer explicitly renounces this right and requests that information be submitted through electronic or other communication services, or at the premises of the financial institution. Consumer organizations indicated that in many cases financial institutions make consumers sign a waiver to receive written statements, and to collect them at the premises of the institution, without properly explaining the effects of this clause.  Regulation 8/05 (which implements the Law on Consumer Credit, among other legislations) indicates that financial institutions should provide the following information in their statements:   * 1. name of the institution’s head office or its branch;   2. reporting period for which the statement is provided and date of statement;   3. credit amount and its maximum limit;   4. credit payment due date, and in case of overdraft interim payment due dates;   5. name and surname of consumer;   6. for each transaction: type (debiting, crediting); processing date; unit; amount; currency;   7. total amount of debit transactions and total amount of credit transactions during the reporting period, account balance as of the first and last day of the reporting period;   8. type and amount of other payments charged;   9. amount of accrued interest;   10. consumer’s total liability amount as of the last day of the reporting period;   11. sanctions applied by the institution due to client's failure to pay obligations;   12. telephone number and e-mail address for consumers to ask questions on the statement.   Also, the general principles of communication between financial institutions and clients included in Regulation 8/05, state that the institutions shall ensure that the information is readily understandable by the client, that the terms and expressions do not mislead or confuse the client, and that the information shall not be presented so as to withhold material provisions. All these principles are thus applicable to paperless statements for consumer credits.  There is no regulation on statements related to other types of credit offered by non-bank credit institutions. |
| **Recommendation** | The CBA should include in new legislation on mortgage credit similar requirements to those included in the Law on Consumer Credit and Regulation 8/05 regarding consumer account statements. Also, similar requirements should be applicable to other credits offered to self-entrepreneurs.  The CBA should closely monitor the alleged practice of making consumers waive their right to receive a written statement in the mail and request to collect it at the premises of the financial institution. The CBA should consider using mystery shopping to monitor these practices. |
| **Good Practice C.2** | ***Notification of Changes in Interest Rates and Non-Interest Charges***   1. **A customer of a non-bank credit institution should be notified in writing by the non-bank credit institution of any change in:** 2. **the interest rate to be paid or charged on any account of the customer as soon as possible; and** 3. **a non-interest charge on any account of the customer a reasonable period in advance of the effective date of the change.** 4. **If the revised terms are not acceptable to the customer, he or she should have the right to exit the contract without penalty, provided such right is exercised within a reasonable period.** 5. **The non-bank credit institution should inform the customer of the foregoing right whenever a notice of change under paragraph a. is made by the institution.** |
| **Description** | The Law on Consumer Credit (Article 17) requires non-bank credit institutions to notify a customer in writing of any change in the conditions of the credit. Regulation 8/05 (Chapter 6) specifies that the institutions shall inform the client about changes in: interest rates, procedures of communication between parties, regulations that impact consumer’s rights and obligations prescribed in the agreement, general terms of service and other payments, and other events directly impacting on rights, obligations or responsibilities of credit agreement parties. This notification shall be made in writing and via postal mail, unless both parties agree that the information be provided through electronic mail or other means of communication, or in the premises of the institution. This notification must be done no later than 7 working days before the changes take effect.  There are no similar provisions applicable to other types of credit. |
| **Recommendation** | The CBA should issue regulations requiring non-bank credit organizations to notify customers in writing of changes in interest rates and non-interest charges associated with other types of financial products besides consumer credit (e.g. mortgage credits, agricultural loans or credits for microentrepreneurs).  The CBA should require financial institutions to provide consumers with the right to exit a contract without penalty if the revised terms are not acceptable, and to inform customers of such right whenever a notice of change of interest rates and non-interest charges is made. |
| **Good Practice C.3** | ***Customer Records***   1. **A non-bank credit institution should maintain up-to-date records in respect of each customer of the non-bank credit institution that contain the following:** 2. **a copy of all documents required to identify the customer and provide the customer’s profile;** 3. **the customer’s address, telephone number and all other customer contact details;** 4. **any information or document in connection with the customer that has been prepared in compliance with any statute, regulation or code of conduct;** 5. **details of all products and services provided by the non-bank credit institution to the customer;** 6. **a copy of all correspondence from the customer to the non-bank credit institution and vice-versa and details of any other information provided to the customer in relation to any product or service offered or provided to the customer;** 7. **all documents and applications of the non-bank credit institution completed, signed and submitted to the non-bank credit institution by the customer;** 8. **a copy of all original documents submitted by the customer in support of an application by the customer for the provision of a product or service by the non-bank credit institution; and** 9. **any other relevant information concerning the customer.** 10. **A law or regulation should provide the minimum permissible period for retaining all such records and, throughout this period, the customer should be provided ready free access to all such records.** |
| **Description** | According to the Law on Pawnshops and Pawnbrokerage (Article 9), pawnshops are required to draw up a pledge ticket when extending a loan and to prepare a personal payment registration card for the pledger; as well as to draw up a nominal receipt when accepting a pledge for custody and to prepare a personal payment registration card for the custodian. Also, the pawnshop shall keep lending documents for at least three years after termination of the relevant loan contract, either at the premises of the pawnshop (in a metal bookshelf or a separate room with limited access) or in a bank operating in Armenia.  The pledge ticket shall contain (Article 10):  a) full name of pawnshop and pledger’s passport details;  b) the number of the loan contract;  c) day/month/year of acceptance of the property under pledge, and the value of pledged property agreed between pawnshop and pledger;  d) description of the property under pledge.  The receipt shall contain (Article 11):  a) full name of pawnshop and custodian’s passport details;  b) day/month/year of acceptance of custody of property, and the value of property under custody agreed between pawnshop and custodian  c) description of property under custody;  d) the number of contract for custody.  The pledge ticket (or the receipt) shall be considered drawn up if it contains all information aforementioned and if each copy of the document bears a signature by the pawnbroker and pledger (or the custodian) and the pawnshop’s seal. A copy of the pledge ticket (or the receipt) shall be kept with the pawnshop and the other shall be handed to the pledger (or the custodian). Once drawn up, all amendments to the pledge ticket (or the receipt) shall be made in the copies available with the pawnshop and the pledger (or the custodian).  A personal payment registration card for the borrower (or the custodian) shall be issued soon after drawing up a pledge ticket or receipt, and shall contain a code and be sealed by the pawnshop. The card shall contain (Article 12):  a) day/month/year of issuance  b) number of relevant loan contract or nominal receipt  c) full name of pawnshop, and the borrower’s (or custodian’s) passport details, day/month/year of regular payment and extent of amount paid, with each payment being authenticated by signature of borrower (or custodian) and pawnbroker;  d) day/month/year on which proceeds from duly sold property under pledge (or custody) have been credited onto the cash desk of the pawnshop, as well as the amount registered;  e) words ‘card closed’ when the card is closed (after the loan contract or receipt has been terminated) and day/month/year of closure.    Also, pawnshops must keep a register book of loan contracts, which shall be numbered, filed and sealed with the pawnshop’s seal (Article 5). Once a regular loan contract is signed and a relevant card is issued, the following is inserted in the book:  a) the number and day/month/year of the regular record;  b) the borrower’s passport details;  c) the number of loan contract(s) and relevant pledge ticket(s)  d) the amount and term of loan;  e) information on the redemption of loan;  f) other relevant information.  The Law on Combating the Legalization of Proceeds from Crime and Financing of Terrorism (Article 21) requires credit organizations to have internal regulations (e.g. rules, procedures, directives) in place for registration and keeping of information on customers and collecting, recording and filing information on suspicious transactions; and to provide copies of such internal regulations and changes therein to the CBA within a week. Article 15 of the Law indicates that a credit organization shall also collect information according to internal regulations from a person acting as an agent, representative or an authorized person of a customer. The Law also requires credit organizations to find out and record the center of material interest and sources of income of a customer or any party to a contract that is a legal entity registered and/or operating in an offshore country or zone, an entity without a status of legal entity under legislation of that country, or an individual. This requirement also applies to a high-risk generating customer. The credit organization is required to keep all above information on hard copies and/or electronically for at least five years.  The Law on Accounting requires all types of companies to keep accounting documents. Credit contracts and correspondences between the customer and the company would be considered as such documents by non-bank credit institutions, but this is not explicitly defined in the legislation. The Law requires that the initial accounting documents be archived for no less than five years.  There are no other specific requirements for keeping certain minimum records of communications between non-bank credit organizations and customers, and to give free access to those records to the customers. |
| **Recommendation** | The CBA should explicitly indicate the minimum period that credit organizations should keep their customers’ records, and the minimum content of such records. |
| **Good Practice C.4** | ***Debt Recovery***   1. **All non-bank credit institutions, agents of a non-bank credit institutions and third parties should be prohibited from employing any abusive debt collection practice against any customer of the non-bank credit institution, including the use of any false statement, any unfair practice or the giving of false credit information to others.** 2. **The type of debt that can be collected on behalf of a non-bank credit institution, the person who can collect any such debt and the manner in which that debt can be collected should be indicated to the customer of the non-bank credit institution when the credit agreement giving rise to the debt is entered into between the non-bank credit institution and the customer.** 3. **A debt collector should not contact any third party about a non-bank credit institution customer’s debt without informing that party of the debt collector’s right to do so; and (ii) the type of information that the debt collector is seeking.** 4. **Where sale or transfer of debt without borrower consent is allowed by law, the borrower should be:** 5. **notified of the sale or transfer within a reasonable number of days;** 6. **informed that the borrower remains obligated on the debt; and** 7. **provided with information as to where to make payment, as well as the purchaser’s or transferee’s contact information.** |
| **Description** | There are no specific rules on debt collection practices by non-bank credit institutions or any financial institution. Although non-bank credit institutions are not required to have a department in charge of collecting past-due debts, in practice most of them have such department or at least an employee responsible for this function.  The Client Protection Principles endorsed by UCO include a principle of Fair and respectful treatment of clients, which states that “providers will ensure adequate safeguards to detect and correct corruption as well as aggressive or abusive treatment by their staff and agents, particularly during the loan sales and debt collection processes.” |
| **Recommendation** | The CBA should monitor the development of debt collection practices in Armenia, either directly or through reports conducted by consumer organizations or by industry associations, in order to evaluate whether it is necessary to issue regulations or guidelines on debt collection.  The industry associations should consider the inclusion of provisions on debt collection practices in codes of conduct that applicable to all their members and adequately enforced by the associations. |
| **SECTION D** | | **PRIVACY AND DATA PROTECTION** |
| **Good Practice D.1** | | ***Confidentiality and Security of Customers’ Information***   1. **The financial transactions of any customer of a non-bank credit institution should be kept confidential by the institution.** 2. **The law should require non-bank credit institutions to ensure that they protect the confidentiality and security of personal data of their customers against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access.** |
| **Description** | | Article 141 of the Civil Code defines the information that constitutes employment, commercial and banking secret as the information that has an actual or potential commercial value because it is unknown to third persons and not freely available on a legal basis, and its holder takes measures to maintain its confidentiality. Article 141 also indicates that persons who by illegal means receive information that constitutes an employment, commercial, or banking secret are obligated to compensate for losses caused. The same obligation is imposed on contract partners who have divulged an employment, commercial or banking secret in violation of a civil-law contract or a labor contract.  The Law on Personal Data (Article 10) establishes, among other key provisions, that the personal data possessed by the data processor are considered to be confidential information except in cases envisaged by law, and that the processor is obliged to undertake corresponding measures for the protection of personal data from sudden losses, illegal access to databases and illegal use of data. The Law also states that personal data are collected for clearly defined and legal purposes and shall not be used for other purposes, except the cases defined by law; and that collection and processing of data that are not necessary for the achievement of the purpose of processing, is prohibited (Article 4).  More specifically, the Law on Pawnshops and Pawnbrokerage requires pawnshops to make sure that the premises are protected by security and anti-fire alarm systems (Article 6), and to guarantee the secrecy of lending documents (Article 9). The Law also establishes that pawnshops shall make personal lending documents available only to:  a) the CBA as and when required for supervision, as well as in cases provided by the Law on Combating Money Laundering and Terrorism Financing;  b) court, investigation authority, inspector, public prosecutor, as provided for in the Criminal Procedure Code;  c) parties authorized by borrower; and  d) notary office to deal with the issues on inheritance (the units and parties, as mentioned herewith, shall maintain confidentiality of information made available to them). |
| **Recommendation** | | No recommendation. |
| **Good Practice D.2** | | ***Credit Reporting***   1. **Credit reporting should be subject to appropriate oversight, with sufficient enforcement authority.** 2. **The credit reporting system should have accurate, timely and sufficient data. The system should also maintain rigorous standards of security and reliability.** 3. **The overall legal and regulatory framework for the credit reporting system should be: (i) clear, predictable, non-discriminatory, proportionate and supportive of consumer rights; and (ii) supported by effective judicial or extrajudicial dispute resolution mechanisms.** 4. **Proportionate and supportive consumer rights should include the right of the consumer** 5. **to consent to information-sharing based upon the knowledge of the institution’s information-sharing practices;** 6. **to access his or her credit report free of charge (at least once a year), subject to proper identification;** 7. **to know about adverse action in credit decisions or less-than-optimal conditions/prices due to credit report information;** 8. **to be informed about all inquiries within a period of time, such as six months;** 9. **to correct factually incorrect information or to have it deleted and to mark (flag) information that is in dispute;** 10. **to reasonable retention periods of credit history; and** 11. **to have information kept confidential and with sufficient security measures in place to prevent unauthorized access, misuse of data, or loss or destruction of data.** 12. **The credit registers, regulator and associations of non-bank credit institutions should undertake campaigns to inform and educate the public on the rights of consumers in the above respects, as well as the consequences of a negative personal credit history.** |
| **Description** | | The CBA is the authority in charge of licensing and exercising control over activities of credit bureaus (according to Articles 5 and 7 of the Law on Circulation of Credit Information and Activities of Credit Bureaus, henceforth Law on Credit Bureaus). At the same time, the CBA administers its own credit registry (Article 2 of Resolution 142-N), where participation of credit organizations is mandatory (but pawnshops are not included).  The Law on Credit Bureaus (Article 12) states that domestic banks, branches of foreign banks, credit organizations, insurance companies, and investment companies shall provide credit information on all their customers to all credit bureaus operating in Armenia. The terms and conditions for the provision of such information may be established by an agreement signed between credit bureaus and such organizations; and the data provided to credit bureaus shall be accurate and comprehensive or consistent. Article 13 indicates that credit bureaus shall ensure confidentiality of information and bear fiduciary responsibility of the credit information obtained. Credit bureaus shall also protect their databases from deletion, data distortion and unauthorized access and disclosure, and shall comply with all security criteria set up by CBA.  In terms of the rights of credit data subjects, the Law on Credit Bureaus includes the following:  (i) credit reports, information and other services containing data, which identifies the subject, may be received only by written consent (including by electronic letter) of the subject; such consent shall be expressly manifested, by indicating the full name of the receiver of credit information and the specific purpose of use of the credit report (Article 16);  (ii) the subject has the right to receive from the credit bureau his or her credit report free of charge at least once in 12 months (Article 18);  (iii) when based on information provided in the credit report, the credit organization refuses to provide a service to the subject or offers less-than-optimal conditions to the subject, the organization shall inform the subject about such credit report; the credit bureau then shall provide the subject, upon request, with a copy of such credit report (Article 18);  (iv) the subject has the right to receive names of other persons who made inquiries about him or her during the last year (Article 19);  (v) the subject (and the receiver of credit information) may advice a credit bureau on identified incorrect or inconsistent data, and the credit bureau shall eliminate errors and inconsistencies occurred by its fault within ten days of being notified of the issue; if the errors and inconsistencies were caused by the information provider, the Law establishes the procedure that should be followed; in either case, the credit bureau shall input in the database and credit report the words “data is disputed” starting from the date it received the notification of incorrect or inconsistent credit information (Article 20);  (vi) the credit report may not include credit history on the subject for more than 5 years (Article 11);  (vii) the subject may notify a credit bureau in writing his or her decision to prohibit the bureau to sell or provide information to others; this prohibition shall stay in force until the subject cancels it, but not longer than for 3 years, although the subject may extend the prohibition (Article 19);  (viii) the credit bureau shall use all its efforts in order to protect data base from deletion, data distortion, disclosure and unauthorized access (Article 13);  (ix) illegal disclosure of credit information by credit bureaus, unauthorized access or penetration to a credit bureau database, or obtainment of credit history without consent of credit bureau is deemed as illegal disclosure of credit information and leads to liability ad defined in the Criminal Code (Article 14).  In the case of consumer credits, according to Regulation 8/05 non-bank credit institutions are required to orally explain the nature and importance of credit history (Article 6) and credit organizations are required to disclose to the consumer that credit history information is submitted to the Credit Register of the CBA (Article 11).  In practice, there is one private credit bureau, ACRA operating in Armenia, and only credit organizations and banks have signed cooperation contracts with this bureau. At the same time, the CBA’s credit registry does not include information of pawnshops. |
| **Recommendation** | | The CBA should require pawnshops to provide information of their clients in the credit registry and allow pawnshops to access the information of the credit registry. The CBA could coordinate with CCCO the provision of technical assistance to pawnshops so that they can develop adequate IT systems and human capacity to process, administer, and protect confidentiality and security of the data they would receive from and provide to the credit registry.  Given the importance of the pawnshop segment in Armenia, especially for lower-income consumers, their absence from the credit reporting system in Armenia is currently not allowing financial institutions to have a complete picture of the real level of indebtedness of their clients, thus affecting their capacity to properly assess their creditworthiness.  There should also be a greater effort from the CBA along with the industry associations and ACRA to raise consumer awareness on the importance of maintaining a good credit history, the effects of late payment on their credit history, the right to receive a free copy of the credit report once a year and when the report is the basis for a non-bank credit institution to reject a credit application or to offer less-than-optimal conditions, as well as the right to appeal and dispute the information appearing in the credit bureau. |
| **SECTION E** | | **DISPUTE RESOLUTION MECHANISM** |
| **Good Practice E.1** | | ***Internal Complaints Procedure***  **Complaint resolution procedures should be included in the non-bank credit institutions’ code of conduct and monitored by the supervisory authority.** |
| **Description** | | The Law on the Financial System Mediator requires that consumers bring a complaint to the financial institution before going to the Mediator (Article 6). The institution then has ten working days after receiving the complaint to provide the customer with a letter communicating its decision (rejection, acceptance or partial acceptance). The Law requires financial institutions to have internal rules on administering the process of examination of complaints, and to publicly disclose such rules, including via the institution’s website (article 7).  Regulation 8/04 establishes minimum principles and requirements for credit organizations and pawnshops to follow in their internal rules on handling consumer complaints. The general principles regarding disclosure of information on complaints handling include (Article 5):  i) information shall be simple and understandable for a representative consumer (defined as a 30-year-old conscious individual with secondary education and no education or work experience in finance of economics), and shall not include confusing or misleading wording;  ii) information shall be presented at least in Armenian, except when customer and company choose another language;  iii) information shall be presented in an easy-to-read font and size, and whenever it is displayed in the form of an announcement it shall be places in a visible location.  Regulation 8/04 requires that key information on complaints handling be available on the website of the company and in a visible location at the premises of the financial institution:   1. an explanatory bulletin on complaints handling (following a format established by the CBA); 2. short description of the complaint handling process (following a sample form provided by CBA); 3. application form for consumer complaints; 4. announcement on how to get detailed information on the internal rules of the financial institution regarding acceptance and handling of complaints; 5. telephone number for getting information about the status of a complaint.   Regulation 8/04 also establishes that every financial institution shall have a “responsible staff” or employee responsible for accepting complaints and providing necessary information to the customer, and this employee shall be available at the place of operation during working hours. Also, any employee of a financial institution shall direct the customer who is presenting or intending to present a complaint to the responsible staff and provide contact details for the responsible staff (Articles 7 and 10). This responsible staff shall advise the customer on the mechanisms to formally submit a complaint and his or her right to receive the internal rules on complaints handling, and shall provide to the customer a leaflet describing the complaints handling process, the bulletin on complaints handling, and a complaints application form. |
| **Recommendation** | | No recommendation. |
| **Good Practice E.2** | | ***Formal Dispute Settlement Mechanisms***   1. **A system should be in place that allows consumers to seek affordable and efficient third-party recourse, such as an ombudsman, in the event the complaint with the non-bank credit institution is not resolved to the consumer’s satisfaction in accordance with internal procedures.** 2. **The role of an ombudsman or equivalent institution in dealing with consumer disputes should be made known to the public.** 3. **The ombudsman or equivalent institution should be impartial and act independently from the appointing authority, the industry and the parties to the dispute.** 4. **The decisions of the ombudsman or equivalent institution should be binding upon non-bank credit institutions. The mechanisms to ensure the enforcement of these decisions should be established and publicized.** |
| **Description** | | In 2008 the Law on Financial System Mediator was adopted by the Parliament, and the Financial System Mediator was created as a mechanism empowered with the right to examine complaints presented by consumers against financial institutions, relating to services provided by a financial institution that involves a cash or property claim not exceeding 10 million Armenian drams or its foreign exchange equivalent amount (Article 3). The Law provides a customer with the right to apply to the Mediator even when this right is not explicitly established in the agreement signed between the customer and the financial institution. The Mediator’s service is free to the consumer.  According to the Law, the Mediator shall be vested with autonomy and freed from reporting to anyone (Article 19). The Mediator: i) shall have higher education, high reputation and at least five years of working experience; ii) may not have worked in any financial institution during the last 3 years; iii) may not be engaged in entrepreneurship, be a member of a ruling body in a political party, hold a position in a government body or a commercial company, carry out a fee-paying work except research or pedagogical activities, and shall not be engaged in activities prejudicing his or her *autonomy and impartiality* (Article 21).  The Mediator is appointed by the Board for four years and may be reappointed. In order to promote Mediator’s independency, the Board shall consist of 7 members, including 1 member appointed by the Government of Armenia, 1 member appointed by the CBA, 4 members appointed by the industry associations, and 1 by consumer organizations. Regarding the latter, if the associations and organizations do not appoint their members within one month after appointment of Board members by the Government of Armenia and the CBA, those members shall be appointed by the CBA Board. The Mediator’s Office is funded through mandatory contributions from the financial institutions that are transferred to a special account kept at the CBA. The contributions are defined in the Law (Article 35) as different percentage of assets (for banks and credit organizations) and premiums (insurers), and different fixed amounts (for other financial services providers and intermediaries).  The Law requires that the consumer first submits the complaint to the financial institution and only after receiving a written response with the institution’s final decision or after ten days of presenting the complaint to the financial institution, the customer may present the case to the Mediator. The customer has up to six months after receiving the final decision of the financial institution to present the complaint to the Mediator, although the Mediator may also examine complaints, which due to special circumstances were not filed within such deadline. Within 14 working days after receiving a copy of the consumer complaint accepted by the Mediator, the financial institution shall submit all needed information to the Mediator. This deadline may be extended by 7 days. Then the Mediator shall examine the complaint and take a decision within 14 working days, although if the case is extremely complicated, the Mediator may extend the deadline by additional 14 days.  Within 30 working days after the Mediator submits its decision (honoring, partially honoring or rejecting the claim) to each party, the customer should inform in writing about his or her consent. When the customer does so, the decision becomes mandatory for the parties. If the financial institution does not comply with the Mediator’s mandatory decision, the customer is entitled to apply to a competent court, which shall examine the application within 3 days and either issue an order enforcing the Mediator’s decision or invalidate the Mediator’s decision. Both parties may also appeal against the Mediator’s mandatory decision by addressing a competent court with an appeal on invalidating it. However, most financial institutions have abdicated their right of appeal through agreements signed with the Mediator’s Office, which are available on the Mediator’s website.  According to the Law (Article 31), the Mediator shall consolidate identified precedents and disclose them on a monthly basis, by the 15th day of the next month, but without disclosing any name of parties of individual cases. The Mediator shall also publish an annual report that, among others, shall include the number of honored and rejected complaints per financial institution. |
| **Recommendation** | | The Financial System Mediator should increase its efforts to improve consumer awareness on the institution, especially among low-income consumers. Among other mechanisms, the Mediator may organize roadshows to rural communities to talk about the work of the institution and how it can help consumers when they face problems with credit organizations and pawnshops. The Mediator could work closer with consumer organizations to increase its outreach.  Consideration could be given to evaluate the current scheme of fees that depends only on the assets of the financial institution and poses a higher percentage on credit organizations (0,007%) than banks (0,001%), independently on the number of cases that are being presented by consumers against these types of institutions. The fees scheme could incorporate a component that increases the contribution of financial institutions that receive higher number of complaints. |
| **SECTION F** | | **CONSUMER EMPOWERMENT** |
| **Good Practice F.1** | | ***Broadly based Financial Capability Program***   1. **A broadly based program of financial education and information should be developed to increase the financial capability of the population.** 2. **A range of organizations–including government, state agencies and non-governmental organizations–should be involved in developing and implementing the financial capability program.** 3. **The government should appoint an institution such as the central bank or a financial regulator to lead and coordinate the development and implementation of the national financial capability program.** |
| **Description** | | There is no nationwide financial education program implemented yet. However, the CBA launched “The improvement of the economic and financial literacy in the Republic of Armenia” program in 2009, which goes along with one of the functions of the CBA’s Consumer Protection and Market Conduct Division (improvement of financial literacy of the population), and the overall mandate of the CBA, which includes “protection of the rights and lawful interests of the financial system consumers including financial education”.  The CBA is planning to elaborate and implement the “National education strategy” in 2012, which will combine and coordinate the efforts of CBA, Ministry of Education, Pension system awareness center and other stakeholders. |
| **Recommendation** | | The CBA should lead a taskforce to elaborate, develop and implement a National financial capability program. This program will allow improving coordination of financial education initiatives, including for example those developed by agriculture support programs from the Ministry of Agriculture oriented towards farmers in the Regions. The taskforce should also include representatives from private sector and civil society. |
| **Good Practice F.2** | ***Using a Range of Initiatives and Channels, including the Mass Media***   1. **A range of initiatives should be undertaken by the relevant authority to improve the financial capability of the population, and especially from low-income communities.** 2. **The mass media should be encouraged by the relevant authority to provide financial education, information and guidance to the public, including on non-bank credit institutions and the products and services they offer.** 3. **The government should provide appropriate incentives and encourage collaboration between governmental agencies, the supervisory authority for non-bank credit institutions, the associations of non-bank credit institutions and consumer associations in the provision of financial education, information and guidance to consumers.** |
| **Description** | The CBA has undertaken several financial education initiatives, using different channels, for example:  • web portal for consumers of financial services ([www.abcfinance.am](http://www.abcfinance.am)), that includes information on financial services and products; events on financial consumer protection; a webpage “Finance for Everyone” that includes segmented information for students, journalists, pupils, teachers, employees, and entrepreneurs, in simple language; online financial games and financial knowledge assessment tests;  • guides, leaflets, brochures on financial services;  • school competition programs on financial themes;  • program of training for school teachers;  • financial education CDs and DVDs for kids;  • informational video clips.  The Financial System Mediator launched a mass-media consumer awareness campaign in 2010 in order to disseminate the creation and role of the Mediator.  Junior Achievement Armenia has implemented several programs, such as the Applied Economics voluntary course being taught to students in their 10th year of school, as well the Economics / finance game competition for senior school students, organized in collaboration with the CBA.  Regarding international organizations, USAID has funded a project on financial education for journalists, and the Microfinance Centre (MFC) launched the Financial Education Program dedicated to low-income households in Armenia, among other countries in East Europe. |
| **Recommendation** | The taskforce on financial education should convene all different stakeholders working in financial education in order to exchange lessons learned from their different initiatives, find ways to leverage successful programs, and combine resources to make more efficient use of scarce resources in this area.  The CBA should work with the financial industry associations in order to develop training programs for their retail sales officers, especially those working with rural population. These officers are generally the front person providing financial education to the consumers, especially those who are just starting to participate in the financial system. |
| **Good Practice F.3** | ***Unbiased Information for Consumers***   1. **Consumers, especially the most vulnerable, should have access to sufficient resources to enable them to understand financial products and services available to them.** 2. **Supervisory authorities and consumer associations should provide, via the internet and printed publications, independent information on the key features, benefits and risks – and, where practicable, the costs – of the main types of financial products and services, including those offered by non-bank credit institutions.** 3. **The relevant authority should adopt policies that encourage non-government organizations to provide consumer awareness programs to the public regarding financial products and services, including those offered by non-bank credit institutions.** |
| **Description** | The CBA has launched an informational webpage (www.abcfinance.am), oriented toward financial consumers. The portal includes guides, leaflets and brochures on financial services (loan, credit card, money transfer, bank account, deposit, insurance, MTPL), which aim to provide unbiased information about main features of financial services and inherent possible costs and risks/benefits. The CBA has also created a hotline where consumers may ask questions or present complaints regarding non-bank credit institutions.  The Financial System Mediator also includes useful information on financial products and services for consumers, including booklets and videos as well as a compilation of selected claims in the form of precedent.  Consumer organizations are not active in financial sector issues. The mission only learned of some work that the National Association of Consumers did to promote Consumers International’s Fair Financial Services campaign in Armenia. |
| **Recommendation** | The CBA should establish a strategy to improve the content of its ABCFinance website. The website could include model contracts for different products of each financial institution, tables comparing the annual cost of credit, and other relevant conditions of financial products for consumers. It is also important that information on Lombard loans and other basic retail financial products be added to the existing materials. The website should also include materials developed by other stakeholders in Armenia, including Junior Achievement Armenia, Microfinance Centre, industry associations, etc.  The Government of Armenia and / or the CBA should find ways to support the strengthening of consumer organizations, for example by establishing specific governance and performance criteria that would have to be met by the NGOs in order to receive funding or cost-sharing for implementation of specific projects. |
| **Good Practice F.4** | ***Consulting Consumers and the Financial Services Industry***  **The relevant authority should consult consumer associations and associations of non-bank credit institutions to help the authority develop financial capability programs that meet the needs and expectations of financial consumers, especially those served by non-bank credit institutions.** |
| **Description** | The CBA does not have an official consultative process with the industry and civil society. Generally the CBA consults with representatives of the financial industry associations when proposing a new regulation or conducting financial capability measures, however consumer organizations are not involved in this consultation process.  The CBA does not use consumer research tools in the process of developing financial capability initiatives. |
| **Recommendation** | The CBA should consult with consumer organizations in the process of developing financial capability initiatives, especially those targeted to low-income consumers and population living in rural areas. The national program for financial education would also benefit from the inputs of consumer organizations. |
| **Good Practice F.5** | ***Measuring the Impact of Financial Capability Initiatives***   1. **Policymakers, industry and consumer advocates should understand the financial capability of various market segments, particularly those most vulnerable to abuse.** 2. **The financial capability of consumers should be measured, amongst other things, by broadly based household surveys that are repeated from time to time.** 3. **The effectiveness of key financial capability initiatives should be evaluated by the relevant authority from time to time.** |
| **Description** | In 2008, the International Labor Organization (ILO) funded a survey of 1,000 households that had a family member that had migrated. The survey showed that 97% of households having savings kept no portion of them in the banking sector; the second most important reason for not saving at a bank was the mistrust in banks (around 30% of respondents). The survey also showed that almost three quarters of households were not aware of either the availability or the terms and conditions of saving products.  Also in 2008, an Assessment of Public Awareness, Literacy, Confidence, Access and Usage of Financial Services in Armenia was funded by USAID and implemented by Emerging Markets Group. Then in 2010 an international survey on financial literacy was conducted in Armenia and other 12 countries, following the OECD INFE methodology.  In 2011, Armenia was selected by the World Bank’s Russia Financial Literacy and Financial Education Trust Fund as one of several developing countries that will apply a new questionnaire and methodology to measure the levels of financial capability, developed after many months of consumer research in several countries. The survey will cover areas like (a) saving and borrowing behavior of individuals, (b) prevailing levels of understanding of basic financial concepts, (c) awareness of financial consumer rights, (d) patterns of household budget management, and (e) use of financial services. The survey will be nationally representative and its results are expected to be available by mid-2012.  The CBA has also developed a guideline “On the assessment methodology of financial and economic educational programs”, with support from the National Educational Institute of the Ministry of Education and Science. |
| **Recommendation** | The World Bank’s Financial capability survey should serve as a baseline for the design of a financial education program in Armenia. The CBA and the proposed taskforce on financial education should thoroughly use the results of the survey to identify target segments of the population in most need of improving their levels of financial capability, as well as to highlight topics or concepts that are not well understood by the population, useful channels to disseminate financial education, among other relevant information.  A follow-up survey in 3 to 5 years should be carried out to measure any impact at a macro level of the implementation of financial education and consumer protection measures.  It is also important that impact evaluation mechanisms be incorporated from the outset in the design of specific financial education measures. Consideration could be given to the use of randomized control trials for this effect, in order to determine measures that produced desired positive effects on targeted segments of the population. |

Annex 1: Institutional Arrangements for Consumer Protection in Financial Services

**The Central Bank of the Republic of Armenia (CBA**) is the institution tasked with complete regulation and supervision of the Armenian financial market, including pawn shops and foreign exchange bureaus. The CBA is also responsible for developing, implementing and enforcing consumer protection policy in Armenia.

The **Ministry of Education and Science** elaborates and implements the policies of the Republic of Armenia Government in the education and science sectors.

The **National Institute of Education** of the Ministry of Education and Science provides teacher trainings and development of teaching materials.

The **State Inspectorate on Market and Consumer Interests Protection** is a separate division within the Ministry of Economy dealing with consumer protection issues in general, excluding financial services.

**Financial System Mediator** is an independently-managed institution founded by the Central Bank of Armenia, responsible for resolution of disputes between individual consumers and financial organizations.

The **State Commission for the Protection of Economic Competition** of the Republic of Armenia was established on January 13, 2001. Its main purpose is the protection and promotion of economic competition, ensuring appropriate environment for fair competition, fostering the development of entrepreneurship and protection of consumer rights.

**Deposit Guarantee Fund** is a non-profit legal entity which was founded by [the Central Bank of the Republic of Armenia](http://www.cba.am). The goals of the Fund's activities are guarantee of remuneration of banking deposits and protection of depositors' interests.

The **Union of Armenian Banks** was created in 1995. It is a non-commercial, non-profit organization. Currently, all 21 commercial banks are members of the Union.

The **Union of Credit Organizations of the Republic of Armenia** is a voluntary union of credit organizations established on July 2008, with the mission of fostering the development of the Armenian financial system through a more efficient and widespread outreach of credit organizations.

The **Association of Mortgage Market Participants of Armenia**was founded in March 2006 and includes representatives of banks, insurance companies, credit organizations, realtors and constructors.

The **Consulting Center of Credit Organizations of Armenia** provides legal advice to a reduced but representative number of pawnshops, and also plays a counseling role in the case of consumer complaints against pawnshops.

**Armenian Motor Insurers Bureau:** The oversight of the third-party liability market is housed at a separate agency called the Armenian Motor Insurers Bureau.

**Association of Insurers:** The association, among other activities, conducts consumer satisfaction surveys in the market place.

**Financial Banking College Foundation:** The Foundation was founded in 1998 by CBA, Unions of Banks and the Ministry of Education and Science. It is a specialized educational institution providing vocational, financial banking and human resources and career development training.

**Pension System Awareness Center Foundation:** It was founded in 2011 primarily aiming at informing the public on the new multi-pillar pension system including the mandatory funded and voluntary funded components and the offered opportunities by the system.

As members of civil society, several **consumer organizations and NGOs** are active in consumer protection and financial education initiatives such as Protection of Consumer’s Rights NGO, National Association of Consumers and Junior Achievement NGO.

Annex 2: List of Laws and Regulations

***Legal Framework***

For more specific description of the sector-specific laws and regulations in this Annex, please refer to the relevant Section in Volume II covering Banking, Non-Bank Credit Institutions, Securities or Insurance, respectively.

***Cross-Sectoral Laws***

* Law on Consumer Credits (17 June 2008)
* Law on Financial System Mediator (17 June 2008)
* Law on Central Bank of Republic of Armenia (30 June 1996)
* Law on Bankruptcy of Banks, Credit Organizations, Investment Companies and Insurance Companies (6 November 2001)
* Civil Code of the Republic of Armenia (5 May 1998)
* Law on Advertisement (30 April 1996)
* Law on Legal Acts (3 April 2002)
* Regulation 8/01 on Explanations and Examples of the Calculation of Annual Percentage Rate of Charge (CBA Board Resolution 363-N, 23 December 2008)
* Regulation 8/03 on Information Publication by Banks, Credit Organizations, Insurance Companies, Insurance Brokers, Investment Companies, Central Depository and Payment and Settlement Organizations Implementing Money Remittances (2 June 2009)
* Regulation 8/04 on Minimum Principles and Requirements on Internal Complaint Handling Processes in Financial Institutions (28 July 2009)
* Law on Circulation of Credit Information and Activities of Credit Bureaus (22 October 2008)
* Regulation 8/05 on Procedure, Terms, Forms and the Minimum Requirements for Communication Between Bank and Depositor, Creditor and Consumer (CBA Board Resolution 229-N, 28 July 2009)
* Resolution 142-N on Creation of Credit registry and terms and conditions of participation of banks, credit organizations and branches of foreign banks operating in Armenia (29 March 2005)

***Banking Sector***

* Law on Banks and Banking (30 June 1996)
* Law on Guaranteeing Compensation and Bank Deposits (24 November 2004)
* Law on Attraction of Bank Deposits (17 June 2008)
* Law on Circulation of Credit Information and Activities of Credit Bureaus (22 October 2008)
* Law on Banking Secrecy (7 October 1996)
* Law on Funds Transfer by Payment Order (4 December 1996)
* Regulation 8/02 on The Calculation Of Annual Percentage Yield Of Bank Deposits (2 June 2009)
* Resolution 71-N on Approval of Minimum Requirements for Implementation of Internal Control System of Banks (11 March 2008)
* Resolution 39-N on Approving the Procedure of  Issuance, Servicing and Distribution of Payment Cards,  Operations Implemented through Payment cards (31 January 2006)
* The Resolution 238-N on Issuance, acquiring and circulation of payment cards in Armenia (24 May 2008)

***Non-Banking Credit Sector***

* Law on Credit Organizations (29 May 2002, as amended)
* Law on Pawnshops and Pawnbrokerage (3December 2003)

***Securities Sector***

* Law on the Securities Market of the Republic of Armenia (11 October 2007)
* Law on Investment Funds of the Republic of Armenia (22 December 2010)
* Regulation 4/01 on Registration and licensing of investment companies, Registration of branches and representations of investment companies and foreign investment companies, procedure of obtaining preliminary consent to holding significant participation in statutory capital of investment companies, procedure, form and time limits for submission of a business plan by investment companies, informing about investment services provision by banks and credit organizations (CBA Board Resolution 16-N, 15 January 2008)
* Regulation 4/05 on Qualification of persons providing investment services, operator, the Central Depositary managers and physical persons providing investment services, list of themes for checking criteria of their professional adequacy and professional qualifications”(CBA Board Resolution 15-N, 15 January 2008)
* Regulation 10/01 “Registration and Licensing of Investment Fund Managers and Branches of Foreign Investment Fund Manager; Registration of Branches of Investment Fund Manager and Representative Offices of Investment Fund Manager and Foreign Investment Fund Manager; Re-Registration and Re-Licensing of Investment Companies as Investment Fund Managers; Acquisition of Qualified Holding in Statutory Fund of Investment Fund Manager; Procedure, Forms and Periods of Submission of Work plans, Reports on their Amendments and Execution by Investment Fund Managers, their Branches and Branches of Foreign Investment Fund Manager” (Central Bank Board Resolution No 116-N, 2 May 2011)
* Regulation 10/11 on Terms and Conditions for Registration of Investment Fund (Fund Rules), Issuing Permission to Sell Securities of Foreign Investment Fund in the Republic of Armenia (Central Bank Board 2 May 2011)
* Regulation 10/05 on Qualification of Investment Fund and Depositary Company Managers and Individuals Managing Investment Funds and Depositaries, Criteria of their Professional Adequacy and List of Topics for Checking their Professional Qualification (Central Bank Board Resolution No 115-N, 2 May 2011)
* Regulation 4/07 on Requirements on Operation of Entitites Providing Investment Services (8 April 2008)
* Regulation 4/12 on Rules on the Protection of Customers Funds of Investment Service Providers (28 October 2010)

***Insurance Sector***

* Law on Insurance and Insurance Activities (9 April 2007)
* [Law on Compulsory Insurance of Liability Arising Out of the Use of Motor Vehicles](http://lexbox.am/uploads/PDF/APPA/1_orenq/Vehicle%20Insurance_Law.pdf) (18 May 2010)
* [Regulation 3/02 on Limits of Main Prudential Standards of Insurance Activity, Procedure of Formation and Calculation, Criteria for Qualifying Reinsurers as not Prohibited](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Insurance/Regulation_3_02.pdf) (2 October 2007)
* [Regulation 3/03 on Types of Technical Reserves and the Rules of Establishment Thereof](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Insurance/Regulation_3_03.pdf)
* [Resolution 162-N on Mandatory Requirements and Conditions for Notices  and Marks Provided  by Insurance Companies to Policy Holders](http://lexbox.am/uploads/PDF/General/English/Resolution_162_n.pdf) (20 July 2010)
* [Regulation 3/07 on Functions Subject to Delegation by the Contract of Delegating Insurance Functions, Documents and Information Presented to the Republic of Armenia Central bank for Receiving Preliminary Permission for Delegating Insurance Functions, Their Contents, Order and Form of Presentation and the Order and Conditions of Receiving Preliminary Permission](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Insurance/Regulation_3_07.pdf) (12 December 2007)
* [Regulation 3/08 on Methodology for Computing the Composite Ratings of Activity Indicators (CARAMELS) of Insurance Companies Operating Within the Territory of The Republic of Armenia](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Insurance/Regulation_3_08.pdf) (16 November 2007)
* [Regulation 3/09 on Order of Classification of Assets of Insurance Companies and Formation and Use of Reserves of Possible Losses](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Insurance/Regulation_3_09.pdf) (25 March 2008)
* [Regulation 3/10 on Minimum Requirements Presented to Internal Audit Activities, Internal Control System of Insurance Companies](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Insurance/Regulation_3_10.pdf) (2 June 2009)
* [Regulation 3/11 on Criteria Presented to the Person Conducting Audit of Financial-economic Activities of Insurance Companies](http://lexbox.am/uploads/PDF/Armenian%20legistlation/English/Insurance/Regulation_3_11.pdf) (1 March 2011)
* [Regulation 8/03.1 on the Content of and Procedure for Publication (provision) of Information by Bureau of the Companies Performing Compulsory Insurance of Liability Arising Out of the Use of Motor Vehicles and Requirements Pertaining to Published (provided) Information](http://lexbox.am/uploads/PDF/General/English/Regulation_8_03.pdf) (2 June 2009)
* Rules Rl 1-011 Armenian Motor Insurers’ Bureau Union of Legal Entities on Advertising (17 November 2010)

1. See the list at http://www.cba.am/en/SitePages/fscfobanks.aspx [↑](#footnote-ref-1)
2. For the full text, see http://www.uba.am/upload/8482.pdf [↑](#footnote-ref-2)
3. Final report was not published. [↑](#footnote-ref-3)
4. Measuring Financial Literacy: Results of the OECD INFE Pilot Study [↑](#footnote-ref-4)
5. Where the consumer agrees, unconditionally and in writing, with the decision of Mediator within thirty (30) business days after it has been delivered, such decision will be binding to all the parties. [↑](#footnote-ref-5)
6. National Mortgage Company (UCO) set up in 2009, and Housing for Young Families (CSJC universal credit organization), established in 2010 [↑](#footnote-ref-6)
7. Non-performing loans comprise the categories “watched”, “substandard”, and “doubtful” [↑](#footnote-ref-7)
8. Resolved by mediation refers to cases where the nature of the claim is such that all parties reach an agreement through reconciliation, without Mediator having to make a binding decision, the case is treated as closed when the client has submitted a letter requesting to withdraw his claim. [↑](#footnote-ref-8)