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Public consultation on the draft OECD Good Practices on Financial Education and Awareness Relating to Credit

Joint Submission by TUAC and UNI

Paris, 20 January 2009

The TUAC welcomes the initiative by the OECD and its Committee on Financial Markets (CMF) to engage public consultation on a draft set of guidelines on financial education and awareness relating to credit[1]. In partnership with UNI – the global union federation of trade unions in the service sector, including the banking, insurance and other financial service sectors – the TUAC submits the following comments and marked-up for consideration by the OECD Secretariat and the CMF.

While the current draft proposes a comprehensive guidance framework, UNI & TUAC believe that there is room for improvement on some key aspects and submit the enclosed marked-up highlighting proposals of amendment. Our changes are guided by the following concerns:

- **Financial education should protect against abusive and predatory sales practices, not just against individuals' own "bad credit behaviour"** (see proposals of amendment to paragraphs 4, 14, 20, 39 & 47)

- **Credit providers' remuneration structure, working environment and sales policies should be consistent with financial education objectives and be conducive to delivering advice in the interest of customers only** (para. 22, 25 & 27);

- **Financial education should address customers' rights to recourse and to redress** (para. 20 and new para. 28b);

- **Financial education should be delivered free of conflict of interest** (para. 21, 40 & 49);

- **Issues related to public accountability** (para. 9), **regulation and public enforcement** (para. 17, 18, 19 & 26) **and multinational entities** (para. 26) **should feature more strongly in the text**;

[1] http://www.oecd.org/document/33/0,3343,en_2649_15251491_41772001_1_1_1_37467,00.html

- **Consumer groups, trade unions and independent NGOs deserve better recognition in delivering financial education** (para. 35-38 & 49), and finally

- **OECD guidance work on financial education should be shared with other forae, including the ILO and the FSF** (para. 7)**, as well as with the two official advisory bodies to the OECD** (para. 8).

DRAFT GOOD PRACTICES ON FINANCIAL EDUCATION AND AWARENESS RELATING TO CREDIT

I. Background

1. Education in the credit area has to address particular challenges linked, on the one hand, to the needs for enhanced awareness of citizens on their rights and responsibilities as credit holders and on the terms and conditions of the credit products they hold and, on the other hand, to the importance for individuals to acquire the skills and adopt the proper behaviors that will allow them to make appropriate credit-related decisions despite the complexity and diversity of credit products, as well as the heterogeneity of credit providers, intermediaries and distribution channels.

2. Against this backdrop, the following proposed good practices were developed as part of the wider project on financial education. As such they supplement the principles and good practices for the financial sector as a whole that have already been approved by the Council (DAF/CMF(2005)24). These general principles apply fully to credit-related issues. The aim of these good practices is therefore to address certain questions specific to credit issues and market players that are involved in those issues, and to highlight good practices that could raise consumers' awareness and enhance education in the realm of credit[i].

II. Financial Education and credit: framework, definition and objectives

3. Taking into account national circumstances, financial education should generally be encouraged, and consumers' financial literacy should be promoted in the credit area. This should be done whether as part of a wider financial-education effort or through distinct programmes. Such education programmes should be conducted in a coherent and transparent manner between main stakeholders, and take into account individuals' key teachable moments throughout their life cycle (e.g., entry in the workforce, buying a house, marriage, birth of child, etc).

4. Within this context, financial education on credit issues should help to enable citizens:

- to develop the knowledge, understanding, skills and confidence needed to adequately appraise and understand their rights and responsibilities as credit holders and the various credit options available to them;
- to know where to look for important information, objective advice or help if they need it;
- to take informed decisions about how to protect themselves and their relatives against the risk of abusive and predatory sales practices and policies,
- to adopt a proactive and responsible behaviour as regards their credit;
- to develop basic abilities of financial planning as regards their credit, taking into account their possible future income and life cycle changes; and
- to understand the consequences of bad credit choices, decisions or behaviours[ii].

5. Education on credit issues should be taken into account within the broader regulatory and supervisory framework, the size and patterns of the domestic credit industry and considered as a tool to further enhance social and economic growth and well-being through reliable, transparent, efficient and competitive markets along with prudential regulation, market conduct supervision and consumer protection. Education on credit issues does not substitute but rather complements prudential and market conduct regulatory frameworks. Appropriate regulatory oversight and enforcement is indeed especially needed in the credit sector to ensure that due diligence is exercised by institutions and intermediaries in the underwriting process, that risks for abusive and predatory sales policies are mitigated, that proper disclosure is made to consumers and that their rights are protected, hence promoting symmetrical information and market efficiency.

III. Main stakeholders' roles and responsibilities in enhancing public awareness and capability on credit issues

A. Role of the OECD

6. OECD member countries, through their work in the Committee on Financial Markets and the Insurance and Private Pension Committee, should continuously monitor evolutions in the credit markets and assess the appropriateness of the financial educations and regulatory frameworks that are in place to inform and protect credit users.

7. As part of this ongoing review and assessment, the OECD should identify good practices and develop guidelines, principles and harmonised standards to inform policy development and assist governments and other international organisations, such as the ILO and the Financial Stability Forum, in the elaboration of initiatives aimed at enhancing credit users' protection and awareness.

8. Through the organisation of conferences and the setting up of expert networks and other such forums, including its official advisory bodies the TUAC and the BIAC, the OECD should promote international cooperation and dialogue allowing stakeholders involved in the protection and education of credit users to meet and exchange on a regular basis.

B. Public Action – Role of Governments and other Authorities

9. The mandate for public action on financial education and awareness as it relates to credit should be assigned by the higher levels of government, preferably to a specialized governmental agency. That mandate should be clear, explicit and transparent to the public, should ensure public accountability of the agency, and be accompanied by appropriate funding to ensure programme sustainability, and long term strategies and planning.

10. Governments should ensure that citizens are appropriately educated as early as possible in their lives – including as part of school curricula- to be knowledgeable, capable and responsible in their use of credit products.

11. Any public policy promoting asset building through consumers' use of credit products should be accompanied, as an integral part, by a broad public consumer education strategy, tools and programmes to allow consumers make to wise, rational and informed credit decisions.

12. Governments have a significant role to play in informing consumers about their rights and responsibilities as credit holders. This should be done through a variety of channels, such as publications, a dedicated website, and broad advertisement and outreach campaigns.

13. Government toll-free hotlines should be promoted and made available to consumers as a source of neutral information and as a means of obtaining impartial answers to questions they may have about their rights, responsibilities or about credit options that may be available to them.

14. Governments should work towards making individuals aware of their limited knowledge on credit-related issues, stressing the risks and implications of having bad credit behaviour ~~and~~, of making inadequate credit decisions or alternatively, of predatory and abusive sales practices and policies by credit institutions. Governments should also provide information for where to seek further information and advice on how to mitigate those risks and how to file complains and seek redress if they think their rights have not been respected.

15. Governments should direct public awareness campaigns as broadly as possible, with specific programmes targeted at the most vulnerable groups (migrants or those with the lowest income and savings levels). Public awareness campaigns should be conducted at least on a yearly basis.

16. Governments should contribute to promoting consumers' awareness and a competitive marketplace by providing citizens with appropriate tools to understand their profile and needs, to compare the costs and characteristics of various credit options and to shop around for the best credit product available to them.

17. To facilitate product comparison by consumers, governments should ~~promote~~ enforce the use by all creditors and lenders, in their advertising campaigns and marketing and disclosure documents, of a unique and standardized, effective interest rate[iii] that takes into account any fees, in addition to interest charges, that may be associated with the credit product or loan. (In neighbour countries, or countries that are part of an economic union, whereby citizens of one country can freely apply for loans or credit products in another country, governments should agree on a common approach to calculating this effective interest rate).

18. To enhance consumers' awareness, through public policy and regulation governments should promote the use by all creditors and lenders, and for any type of loan or credit product, of a box prominently displayed in the loan or credit agreement, and clearly summarizing the important terms and conditions of the loan or credit product. Governments should develop a prescribed standard format for this summary box, in accordance with OECD principles based on good practices in that respect.

19. Governments should provide a regulatory framework allowing market players (i.e., credit providers, lenders and intermediaries) to confirm consumers' understanding and awareness of the terms and conditions of the credit product they apply for. This could be done through standardised forms and guidelines developed in conjunction with market conduct regulators (or other responsible public authorities), using OECD principles based on good practices in this area.

20. In cooperation with market conduct regulators and supervisory authorities, governments should seek to inform consumers about abusive, predatory, dishonest, non-transparent, unethical and/or illegal credit market practices, and their implications for consumers. They should actively inform consumers about their rights to recourse and redress and facilitate access and affordability of the mechanisms for recourse. Supervisory authorities should also consider disclosing to the public the enforcement measures and penalties issued to market players resulting from these practices.

21. Governments should promote the development of financial information sharing platforms (such as credit bureaus or credit reporting agencies) that are free of conflict of interests, to allow consumers to receive the benefits of credit ratings[iv], and to allow for proper risk pricing of credit products. And, where such platforms are in place, governments should promote consumers' free access to their credit reports. Information provided to consumers by these platforms should be independent and therefore in no case bound to any creditor or credit intermediary.

C. Role of credit market players

Financial institutions[v]*, Intermediaries*[vi] *and other credit providers*[vii]

22. Credit market players should be liable for ensuring that any staff involved in the provision of loans or credit products to consumers are suitably managed, remunerated (including bonuses and other incentives), trained, qualified and demonstrate the necessary level of competence required to provide accurate and complete information to consumers, to verify that this information is understood, and to assist them in their credit decisions through provision of adequate advice. The employee working environment of credit market players should be conducive to giving advice in the interest of customers. This should be imbedded in an appropriate management structure against predatory sales practices.

23. As a rule, the role and responsibilities of all credit market players in the financial education process should be clearly defined and promoted and should become part of their good governance with respect to their credit holders and/or customers.

24. The accountability of credit market players, and in particular of independent intermediaries who represent their clients in this respect, should encompass accurate provision of quality information that can be distinguished from advertising and promotion.

25. Any credit provider should use due diligence in assessing consumers' profile. Consumers should receive objective and relevant explanations and advice commensurate with their degree of sophistication and needs. ~~from s~~Sales staff or agents ~~who~~ should be adequately qualified and trained in this respect and their remuneration and incentive structure be designed accordingly. This should particularly apply to complex credit products, products that carry higher inherent risks for consumers (such as variable interest rates, foreign currency loans, etc), products involving long-term commitments, or commitments which represent a substantial proportion of current and future income or which feature important penalty clauses in case of payment default or contract termination by the consumer.

26. In addition to regulation, ~~Through~~ self-regulation, good governance and due diligence~~,~~ by credit market players should ensure consumers' understanding and awareness of the terms and conditions of the credit product they apply for. In so doing, credit market players should use standardised forms and apply government guidelines based on OECD principles. For multinational entities, a group-level policy on financial education and specific monitoring mechanisms are desirable to contribute to proper accountability of credit market players.

27. Credit market players should be encouraged to post, on their Internet sites, complete information on their credit products and loans, including their characteristics and a fee table, as well as their lending and sales policies with regard to customers' rights and needs, particularly for vulnerable groups. Information should be provided in manner comprehensive to targeted consumers.

28. Credit market players should engage in further initiatives to increase individuals' awareness of their rights and responsibilities as credit holders, of the importance of good credit behaviour and the implication making bad credit decisions, of tools available to help them shop around for the best option, as well as providing unbiased information on credit related issues. These activities should be clearly distinguished from marketing promotion and advertising.

28b. Credit market players should ensure suitable customer information about their rights to redress and to recourse.

29. Intermediaries or third parties engaged in the credit markets, which have direct interactions with consumers (through advertisement or direct credit transactions) should be subject to the same

requirements and expectations regarding consumers' awareness and education, and have the same liabilities in that respect, as any market participant.

Financial information sharing platforms

30. Credit reporting agencies should play an active role in informing consumers about the importance of reviewing and understanding the information contained in their credit report. Broad public campaigns in that regard should be promoted.

31. Taking into account jurisdictions' context, credit reporting agencies should clearly indicate, on their website, and through other promotional public documents, that consumers' have the right to receive a copy of their credit report for free.

32. Credit reporting agencies, though their websites, consumer contact centres and publications should contribute to helping consumers being aware and understanding information contained in their credit file.

33. Information contained in the consumer's credit report should be presented in a way that is clear, understandable and helpful for the consumer (e.g., complex codes, abbreviations, truncated information, etc, should be avoided). Where appropriate, consumers' credit reports should contain directions to help consumers improve their credit history and rating.

34. The action of comparing options and requesting quotes from various institutions and/or intermediaries should not be detrimental to the consumer credit history, score or rating.

D. Role of consumer groups, trade unions ~~other social and business partners~~and other NGOs

35. ~~Depending on the country context, credit market players' associations and c~~Consumers' associations, as well as trade unions~~and~~, ~~other~~ NGOs and independent institutes specialised in credit issues, should also contribute to financial education programmes.

36. They should be encouraged to provide financial information or training, or should at least inform their members and more broadly credit consumers of where they can receive help. They should also have a role in making sure that consumers know what credit or loan options are available to them.

37. They should also be encouraged to sponsor materials for public education programmes, provided the information is sufficiently neutral and distributed under public oversight.

38. Such stakeholders ~~as consumer associations and NGOs, in association with credit providers and lenders,~~ should develop innovative tools to assist vulnerable consumers in obtaining credit or loans of a limited value (aimed at filling urgent needs), and in meeting their credit or debt obligations in a responsible and informed manner.

IV Special considerations for mortgage products and issues

39. Mortgages are for many consumers the most important debt they will take in their lifetime. Since the potential consequences of abusive and predatory sales practices or making bad or uninformed decision can be devastating when it comes to mortgages[viii], and because of their long term nature, their size, their unique and often complex characteristics, special consideration should be given to the protection and awareness of consumers entering into a mortgage agreement.

40. Before they start shopping for a house, and for a mortgage, consumers should be provided with objective and ~~neutral~~ tools free of conflict of interest, preferably from a public authority, to determine how much they can afford.

41. Mortgage lenders and intermediaries should clearly state to potential borrowers the implications of them providing inaccurate information or making misrepresentations on their loan applications (i.e., consequences may range from a future inability to repay the loan, to a termination of the mortgage agreement, which could result in home loss).

42. Market players and credit reporting agencies should not prevent consumers from comparing mortgage options or products, or limit their ability to obtain quotes from many loan or credit product providers and/or intermediaries.

43. According to national circumstances, legislation should encourage clear, transparent and plain language disclosure on mortgage agreements. For instance, lenders should be required to prominently display, in their mortgage agreements, a summary of key terms and conditions of the loan and to explain their implications. As a minimum , this disclosure should include:

- the loan amount, amortization period and term;
- the interest rate and variable rate features;
- any fee and charge (including broker fees) associated with the loan;
- the real annual interest rate including the extra charges related to the mortgage;
- the date on which interest starts being charged;
- the amount of payments, and when they are due;
- whether payments will be applied first to cover interest and other charges, and then to the outstanding principal;
- a description and cost of optional services that the consumer accepted (e.g., disability or life insurance); and
- how the penalty – if any – will be calculated in case of prepayment or payment default.

44. Regulatory considerations should be given to making mortgage lenders and intermediaries responsible for ascertaining consumers' credit needs and for determining whether consumers have the capacity to repay a loan that satisfies those needs.

45. According to national circumstances, financial education material dealing with mortgage issues should include information about the benefits for consumers, when they can afford it, of paying off their mortgage faster and about ways of doing so without extra costs or penalties.

V Programmes to raise risk awareness and strengthen education on credit issues

A. Assessing needs and existing programmes

46. According to national circumstances, stakeholders involved in the development of financial education initiatives relating to loans and credit products should make ongoing efforts, inter alia, to develop methodologies and criteria to assess population's needs as regards literacy and capabilities on credit-related issues, as well as the impact and effectiveness of existing programmes in this respect.

47. According to the needs of the jurisdiction, these processes should *inter alia* involve:

- Evaluation on a more systematic basis of the implications of predatory and abusive sales practices, or of bad credit decisions or behaviours on individuals and their relatives, along with analysis of risks and/or populations that are particularly vulnerable in this area;
- Evaluation of individuals' degree of literacy and more or less active behaviour as regards their credit choices, decision and exposure to potential resulting bad consequences;
- Identification and assessment of needs for educating the population with respect to specific groups, risks, products and players as well as the reasons for any shortcomings;
- Systematic evaluation of measures and programmes intended to enhance education on credit-related issues, based on predefined criteria and including a cost-benefit assessment.

B. Mechanisms and tools

48. Stakeholders involved in the development of financial education programmes aimed at improving the level of awareness and education on credit-related issues should consider making use of a large variety of means to ensure that a wide audience- including targeted and vulnerable groups- may be appropriately and effectively reached.

49. These should imply, according to national circumstances, to encourage:

- The development of credit consumption-related networks and institutions that are free of conflict of interest and independent from credit market players;
- Broad media coverage (*i.e.* radio, television, print journalism, billboard advertising and Internet), and the organisation of events to raise awareness on credit issues and on the importance of financial education in this respect. In this perspective, the awareness and knowledge on credit issues of the main players in the information and instruction channels (*i.e*. the media, teachers, educators and parents) should be reinforced;
- The development of sources of reliable, objective and free information (including toll-free consumer contact centres) that consumers could turn to in order to obtain information, education, assistance and advice before signing on to a credit or loan agreement;
- The development of various tools – Internet sites, but also guides, brochures, leaflets and other available traditional or modern communication methods – enabling consumers to consult reliable sources for comparisons of the products offered by various credit market players and lending institutions, to assess their level of protection against potential risks –e.g. through calculators and quizzes-, as well as their assessment of the affordability and appropriateness to various types of loans or credit products given their specific profile and situation;
- The use of plain language. Any financial education tool or programme should first be tested with a control group to ensure the message is clear and understood by the targeted audience.

50. In a similar perspective, the credit and lending industry, in association with social partners, should also be encouraged to develop innovative short term credit products and tailored distribution channels that can best meet the short term, urgent needs for small credit at affordable cost, particularly for the most vulnerable segments of the population. These should be accompanied by a literacy/education program to assist the consumer in the repayment of the loan or credit debt.

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i The terms "credit" hereinafter broadly covers any retail credit or loan products offered to consumers, regardless of the issuing institution. In that broad context, "credit" refers to revolving credit (e.g., credit cards, lines of credit, home-equity lines of credit, etc), instalment loans (e.g., mortgages, personal and car loans, student loans, etc) and more recent alternative credit products often offered through non-traditional institutions or "fringe" credit providers (e.g., payday loans, sub-prime mortgages, etc).

ii It is acknowledged that in some cases, bad credit behaviour may be attributable to psychological factors that are unrelated with financial awareness and literacy, and therefore beyond the scope of these good practices.

iii Sometimes referred to as "annual percentage rate" or APR.

iv Also see DAF/COMP(2006)33.

v Includes any regulated bank, credit union, trust company, loan company, insurance company, asset management firm, credit card issuer, and similar businesses.

vi Includes any institution, firm or individual who performs intermediation between the consumer and the credit provider (e.g., mortgage broker).

vii Other credit providers include any other credit or loan issuer not listed above, such as non-regulated entities, the non-traditional institutions and so-called "fringe" credit providers.

viii The potential liability of a bad mortgage decision can be as high as the loss of the entire home.