



TRADE UNION ADVISORY COMMITTEE
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AUPRÈS DE L'ORGANISATION DE COOPÉRATION
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The OECD public consultation on “Draft G20 High-Level Principles on Financial Consumer Protection”

- Joint contribution by the TUAC, the ITUC & UNI Finance

Paris, 30 August 2011

TUAC welcomes the opportunity to submit written comments on the Draft G20 High-Level Principles on Financial Consumer Protection, which were prepared by the Task Force on Financial Consumer Protection of the OECD Committee on Financial Markets. This OECD project was mandated by the G20 Finance Ministers and the Financial Stability Board (FSB). It provides the opportunity for the Organisation to make a valuable contribution to the G20 Process that was launched in response to the global financial, and now economic and social, crisis that began in 2008. In partnership with the International Trade Union Confederation (ITUC) and UNI Finance – the international trade union organisation representing workers in the insurance and banking sector – the TUAC makes the following contribution to the public consultation.

The Draft Principles do not meet trade union expectations. If adopted as it is today, we fear that at best the Principles will have very limited impact on the ground and, at worst, they could serve to undermine efforts to strengthen financial regulation and supervision by giving uncritical support for self-regulation and voluntary approaches.

More specifically, comparing the current text with previous versions shows that important issues have either been downgraded or deleted altogether in the current Draft. Many of the comments set out below call for the reinstatement of text previously considered by the Task Force, but deleted in the current version. Our observations are discussed in two parts:

- the need to strengthen the status of the Principles;
- the need to strengthen the requirements of the Principles themselves.

Status and future implementation of the Principles

The text makes it clear that the Principles are non-binding and voluntary. Accordingly banks, insurers and other financial intermediaries and their regulators are free either “not to respect” these Principles or to “pick and choose” some parts while disregarding others. This is unhelpful. It is also at odds with comparable guidance documents of the FSB. For example, the introduction to the FSB Principles for Sound Compensation Practices¹ (and their Implementation Standards²) states that the Principles “will be implemented by firms and will be reinforced through supervisory examination and intervention at the national level” while “authorities, working through the FSB, will ensure coordination and consistency of approaches across jurisdictions”. Terms like “non-binding” or “voluntary” do not appear anywhere in the FSB Principles for Sound Compensation Practices.

¹ http://www.financialstabilityboard.org/publications/r_0904b.pdf

² http://www.financialstabilityboard.org/publications/r_090925c.pdf

We recommend that the current OECD draft be amended accordingly and that the status and implementation of the Principles be aligned with the above mentioned FSB Principles on Compensation. Following adoption of the text, the Task Force could usefully conduct follow-up work on “implementation standards”. From there the FSB, together with the OECD, could conduct regular peer reviews, along the lines of the FSB Principles on Compensation.

Content of the Principles

On substance, the TUAC, ITUC and UNI Finance have the following observations to share.

1. Legal and Regulatory framework

Paragraph 1: Reference should be made to the broader regulatory framework, including the need for robust prudential regulation, governance and transparency of financial institutions as well as to competition to avoid excessive concentration of the financial sector, as was suggested in an earlier version of the text.

Paragraph 2: The term “advertising” – which also appeared in earlier versions – should be reinstated as an important area that is exposed to financial frauds and abuses.

Paragraph 4: Trade unions should be included as “relevant stakeholders” in the fourth paragraph. Trade unions at national and international levels have a legitimate role in promoting financial consumer protection. For example in the US, the AFL-CIO is currently running a public campaign to support effective implementation – including appropriate funding – of the newly created Consumer Financial Protection Bureau (CFPB). UNI Finance adopted a Model Charter on responsible sales of financial products in June 2010, of which consumer protection is a central objective³.

2. Role of oversight bodies

Paragraph 1: Reference should be made to the power of “sanctioning” in the second paragraph as was the case in a previous version of the text.

Paragraph 2: The text should also call for employees of financial service providers and their representative trade unions to be involved with and linked to the oversight bodies and supervisors. Employees have specific knowledge and experience about how daily practices can impact on risk. In practice, policies are not always implemented the way managers think they are and employees can contribute to providing a more complete picture of the company’s risk profile.

3. Equitable and Fair Treatment of Consumers

Paragraph 1: The text should include an indicative list of abusive practices – as suggested in a previous version of the Draft. The list should include: deceptive advertising, abusive collections practices, high-pressure selling techniques, breaches of client confidentiality, consumers being subject to inappropriately targeted products and services or provided with

³ <http://bit.ly/oCGMaT>

inadequate or incomplete information or advice that is difficult to understand and / or does not enable them to make informed decisions, unreasonable post-sale barriers preventing consumers from changing products, switching providers, submitting claims or making complaints.

New paragraph: The text should also stress the need for working conditions for financial sector employees that facilitate a working environment that is conducive to equitable and fair treatment of consumers. Working conditions include allocating sufficient time for advice, occupational training, as well as protection against any form of management pressure to sell products or services that are against the interests of the consumer.

4. Disclosure and Transparency

Paragraph 1: We are particularly concerned about the content of Principle 4 on Disclosure and Transparency. While a previous draft required service providers to “provide clear, concise, accurate, reliable, comparable, easily accessible, and timely written information on the financial products and services”, including “on prices, costs, penalties, surrender charges, risks and termination modalities”, that part of the text is now relegated to a “footnote”. While the status of footnotes in the Principle is not known, as a general principle we consider that the use of footnotes in official guidance documents should be avoided because it creates uncertainty for users. The text should be reinstated in the core Principle.

Paragraph 1: In the same vein, disclosure of remuneration and conflicts of interests by service providers has been downgraded in the current text. In a previous draft, intermediaries were required to “fully disclose their mode of remuneration and any link they have with financial services providers that may affect the objectivity and adequacy of their advice”. The current text only requires “key information” to be shared. The text of the previous draft should be reinstated.

Paragraph 2: The text should also include reference to formal whistle-blowing structures – as is the case in numerous OECD standards⁴ as well as in the new EC proposal for the capital requirements directive – to ensure workers are able to report issues of consumer protection to supervisors directly and to senior management structures, including full protection of staff who disclose information in the public interest.

5. Financial Education and Awareness

Paragraph 1: An important barrier to financial education is the lack of independent civil society organisations, free from conflicts of interest including the influence of powerful financial business groups. Mentioning “all relevant stakeholders” does not suffice. The text should acknowledge the need for governments to actively promote consumer groups and NGOs that are independent from business interests and are adequately funded.

6. Responsible Business Conduct of Financial Services Providers and Their Authorized Agents

⁴ Including, inter alia the OECD Guidelines for Multinational Enterprises (2011) and the OECD Principles of Corporate Governance (2004).

As is the case for Principle 4 on Disclosure and Transparency, Principle 6 on Responsible Business Conduct has been substantially downgraded compared with previous versions of the draft. We regret in particular the deletion of:

- Paragraph 1: “Regulation” where it reads that financial service providers should be accountable for the actions of their agents;
- Paragraph 2: “Credit worthiness” in the list of assessments that service providers should conduct of their clients;
- Paragraph 3: Staff “sales incentives” and disclosure of the mode of remuneration of the authorised agents and links that may affect the objectivity of their judgement;
- Paragraph 2: A general requirement for service providers to ensure that clients understand what they are buying.

7. Protection of Consumer Rights

Paragraph 1: The qualification “as much as possible”, which was added to this version of the draft, does not generate confidence that these Principles are giving consumer protection rights the high priority they deserve. It adds confusion, not clarity.

8. Protection of Consumer Data and Privacy

We have no comment at this stage.

9. Complaints Handling

Paragraph 1: Compared with the previous draft version, governments are no longer required to “ensure”, they just need to “seek to ensure”. This weakening of the text is very unhelpful and does not add to the credibility of the Principles.

10. Competition

Paragraph 1: We regret the deletion of references to vulnerable groups as well as to the need to reduce the cost of switching between products and providers so as to empower consumers (the current text refers to “reasonable” and disclosed costs only).