

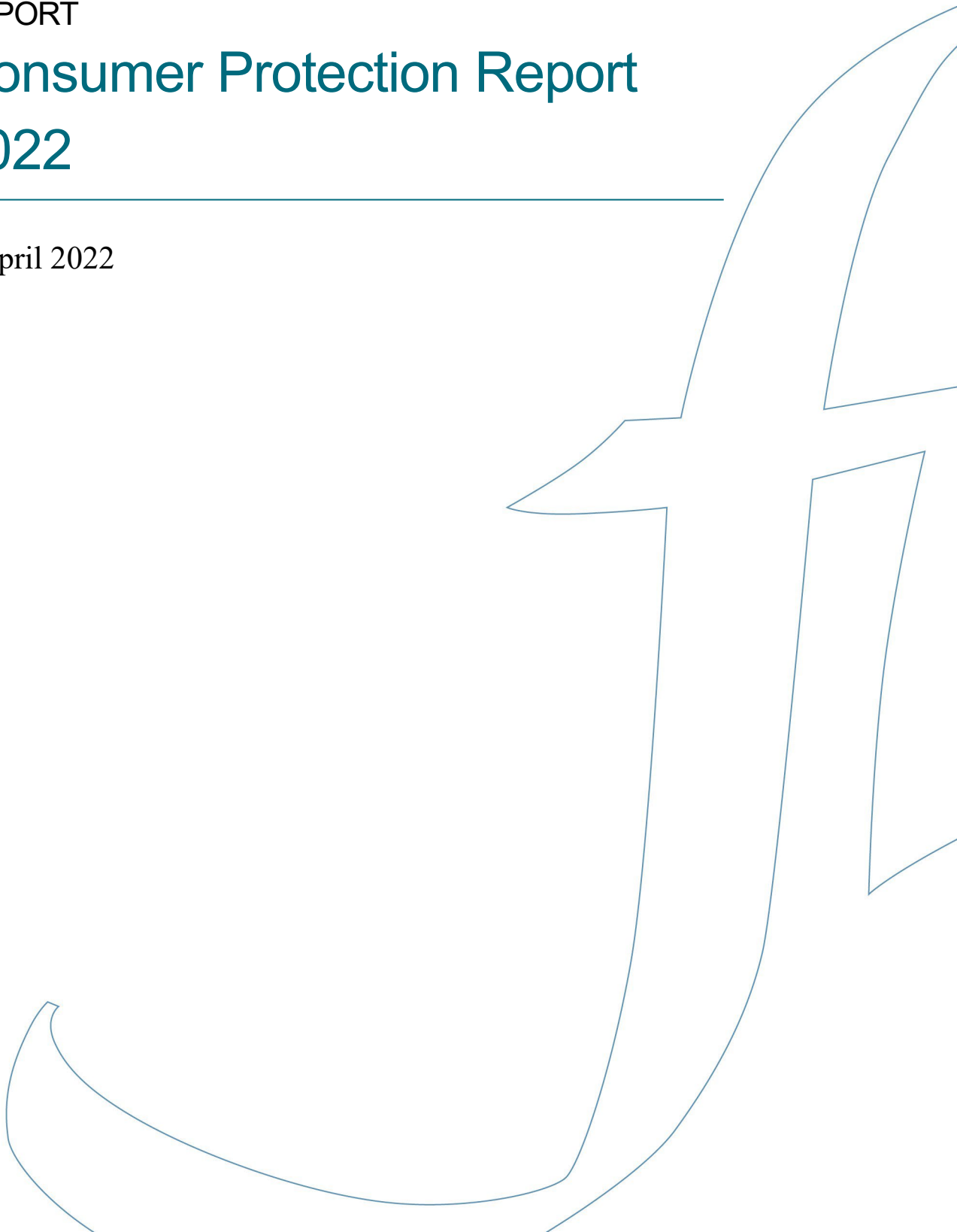


REPORT

# Consumer Protection Report 2022

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7 April 2022



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This report fulfils Finansinspektionen's assignment to report to the Swedish Government on the authority's consumer protection work pursuant to Section 3 Point 4 of FI's Instructions.<sup>1</sup>

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<sup>1</sup> Finansinspektionen's Instructions Ordinance (2009:93)

# Summary

Unaffordable lending and commissions from the sale of financial instruments are the highest prioritised risks in Finansinspektionen's (FI) consumer protection assignment for 2022.

We are still seeing risks on the consumer credit market associated with consumers receiving loans that they are not able to repay. In the long run, this can lead to overindebtedness.

In this year's consumer protection report, FI emphasises the importance of thorough credit checks. The assessments must be based on sufficient information about the consumer's personal finances, so the consumer can pay back their loans and at the same time maintain a reasonable standard of living. If the loan has been issued through a credit intermediary, the creditor may need to supplement the information collected by the intermediary. The choice of the sales channel can never justify basing a credit worthiness assessment on insufficient information. Credit intermediaries, who receive commission from the lenders and that in their marketing often encourage consumers to refinance their loans or raise new loans, are obligated to meet the requirements on sound lending practices.

Although there was some improvement in terms of the handling of commissions, securities institutions and insurance undertakings continue to receive large commissions from product companies, primarily fund management companies, in terms of distribution, both with and without advice. We make the assessment that there continues to be a risk of adverse conflicts of interest due to commission. FI emphasises the importance of the firms meeting the requirements that apply to them with regard to receiving commissions.

An increasing number of consumers are turning to FI to complain that the banks are refusing to allow them to open a payment account or that their payment account has been frozen or closed. They then have difficulties managing day-to-day activities. In many cases, the banks make this decision because they view themselves as having insufficient customer knowledge according to the anti-money laundering regulations. We emphasise that they must always perform a thorough individual assessment of the consumer's application for an account. FI will invite the industry to a dialogue to discuss the matter.

Some consumers turn to FI because they have had difficulty getting into contact with the firms' complaints manager or have never been referred to such manager at all. All financial firms should have functional complaints handling in order to develop their business, address deficiencies and protect consumers' rights. It is important that the information about to whom consumers can turn is clear and that it is easy to communicate with the firm about the problem that has arisen.

In 2022, FI will analyse whether insurance undertakings are raising loyal policyholders' insurance premiums for home or auto insurance more than they raise premiums for other policyholders in the same risk group. During the year, we will also hold a dialogue with fund managers regarding our analysis of activity levels in funds. Of the 28 funds that were included in the analysis, 19 were deemed to be potential closet index funds, with some belonging to the largest fund managers in Sweden. Some fund managers will need to improve their governance and oversight procedures. In the report, FI also highlights the risks of investment fraud, which has increased sharply in recent years, and the risks associated with investing in crypto-assets.

We also highlight the need for new rules on how liquidity in some funds can be safeguarded and on how the interest rate differential payment should be calculated when a consumer wants to repay their mortgage before their fixed interest term expires. The latter of these issues has become particularly relevant following Russia's invasion of Ukraine, which has led to greater inflationary pressures and raised the expectations on the Riksbank to tighten Sweden's monetary policy. The market's expectations on rising interest rates could lead to more consumers wanting to secure their housing costs by fixing their mortgage rate. Given this development, it is particularly important that consumers who want to repay fixed-rate loans early are not subject to requirements on unjustifiably high remuneration to the bank.

## Complaints handling and the right to a payment account

Every company in the financial sector should carry out effective complaints handling. An increasing number of consumers are contacting FI, complaining that banks refuse to open a payment account for them, or block or close their accounts. We would like to make it clear that every bank must always make a thorough individual assessment of a consumer's application for a payment account. FI is going to invite representatives from the industry to engage in discussions on these issues.

## Complaints handling is a central feature of consumer protection

A consumer who is not satisfied with the service they have bought, or with a decision a company has made, must be able to make their complaint easily and have it investigated by the company. In the financial area, there are provisions and guidance in place for complaints handling in several different acts, regulations, EU guidelines and general guidelines.<sup>2</sup> The aim is to enable consumers to contact the complaints manager if they cannot resolve an issue directly with the relevant department of a company. It is important to ensure that the information about who the consumer can contact is clear and that it is easy to communicate with the company about any problems that have occurred.

Complaints handling has a dual function. Firstly, it is about the consumer being able to receive help for an individual matter, which could potentially lead to a decision being changed or a clearer explanation being given of the reasons behind the company's decision. Secondly, complaints represent an opportunity for companies to identify risks of mismanagement and deficiencies in their operations that need to be addressed. It indicates whether the company needs to review its procedures and instructions, and whether it has to change its products to better meet the needs of its customers.

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<sup>2</sup> For example, FFFS 2002:23, Finansinspektionen's general guidelines on complaints management concerning financial services for consumers; FFFS 2018:10, Finansinspektionen's regulations regarding insurance distribution; FFFS 2013:9, Finansinspektionen's regulations regarding Swedish UCITS; FFFS 2018:4, Regulations regarding activities of payment service providers; Article 26 of Commission Delegated Regulation (EU) 2017/565 implementing MIFID II (Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU); Guidelines on complaints-handling by insurance undertakings, EIOPA-BoS-12/069; Guidelines on complaints-handling by insurance intermediaries EIOPA-BoS-13/164; and Guidelines on complaints-handling for the securities and banking sectors, JC 2018 35.

In October 2021, FI published a report on complaints handling by insurance companies.<sup>3</sup> This report revealed that although companies as a whole had effective complaints handling in place, there was some room for improvement. We found good examples of the way insurance companies are able to inform and explain the complaints handling procedure to their customers. Companies with more limited information about how their customers could complain were also shown to receive fewer complaints. Receiving fewer complaints is not necessarily something positive; there is a risk that it may instead mean that the rights of the consumers are not being safeguarded and that companies are not identifying risks and deficiencies in their operations. Most of the insurance companies that were surveyed had some form of central system for registering complaints and also regularly followed up these complaints.

In its report from October, FI highlighted the importance of companies having a robust complaints handling procedure in place, having the correct policy documents and continually following up and reporting. This naturally applies to the financial industry as a whole; we believe that all financial companies should have effective complaints handling in order to develop their operations, correct any deficiencies and prevent them from neglecting the rights of the consumers.

Some consumers contact FI, the Swedish Consumers' Banking and Finance Bureau and the Swedish Consumers' Insurance Bureau with complaints about companies in the financial industry. The complaints that are made to these bureaus and directly to us give FI a picture of where problems exist in the financial sector. We use these complaints when assessing what FI should prioritise in our supervision.

The most common complaints in 2021 were access to payment accounts, unauthorised transactions, investment fraud, dissatisfaction with claims settlements, and difficulties in managing financial services due to them becoming increasingly and almost exclusively digital. Consumers also state that they find it difficult to contact the complaints manager or have not even been referred to them. This indicates that there are companies that have reason to review their procedures to ensure that their customers know where to turn. A lack of information about who the consumer can contact with their complaints gives the impression that the company does not want to handle the complaint and therefore does not sufficiently exercise its duty of care.

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<sup>3</sup> FI-tillsyn nr 24, Försäkringsföretagens klagomålshantering, 2021. Only available in Swedish.

## The right to a payment account is the most common complaint to FI

One type of complaint that is made to the bureaus and FI that stands out in particular is consumers who are refused a payment account with basic services or who have had their account blocked or cancelled. FI and the Swedish Consumers' Banking and Finance Bureau receive a high number of these kinds of complaints; the number has constantly increased over the past five years. In 2021, complaints about blocked or cancelled accounts saw a significant increase.

Consumers who do not have a payment account face major problems coping with everyday life and being members of society. For example, they cannot receive salary payments, pay bills and make transfers. According to the EU's Payment Accounts Directive<sup>4</sup> consumers who are legally resident in the European Economic Area (EEA) have the right to open an account with basic payment services. FI published a report at the end of 2020<sup>5</sup> on how the rules implementing this directive are being applied. In this report we found, inter alia, that although the banks were aware of their obligations and had put procedures in place, there were indications of deficiencies in the way these provisions were being applied. FI concluded that the information about the regulations and the banks' procedures had not reached all of the banks' employees. This indicates that the banks need to follow up the way their procedures are being applied throughout their organisations.

One particular problem that was highlighted in this report and that has also been the source of most of the complaints about the right to a payment account received by FI and the Swedish Consumers' Banking and Finance Bureau is the contradiction between the right to a payment account and the anti-money laundering rules. Opening and using a payment account with basic features must comply with the anti-money laundering regulations. According to these regulations, banks may refuse to open an account or close existing accounts due to the requirements for identification and customer knowledge. However, in this respect, it is important to note that the European Banking Authority (EBA) has emphasised on various occasions the importance of banks carrying out an individual assessment of the consumer's conditions and not excluding entire customer groups from obtaining an account.<sup>6</sup> The need for the banks to comply

<sup>4</sup> Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.

<sup>5</sup> Redovisning av betalkontodirektivets genomförande i Sverige, Ref. 20-28029, 2020. Only available in Swedish.

<sup>6</sup> EBA/GL/2021/02, Guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions ('The ML/TF Risk Factors Guidelines') under Articles 17 and 18(4) of Directive (EU) 2015/849, 2021; and EBA/Op/2022/01, Opinion of the European Banking Authority on 'de-risking', 2022.

with the regulations, carry out individual assessments and carefully examine this type of case is particularly important when considering the far-reaching consequences that not having a payment account with basic services will have on the consumer.

The anti-money laundering regulations restrict in some cases the information that the bank can give a consumer about the reasons why they are not allowed to open an account or have had their account closed. However, FI would like to remind the banks that they must, as far as possible, be clear in their communication and also explain to the consumer which person at the bank they can contact if they have a complaint. FI and the Swedish Consumers' Banking and Finance Bureau have been told that some consumers have not been given a complaints referral; while others who had been refused an account have been approved after contacting the complaints manager. This shows the importance of effective complaints handling.

In our regular dialogue with individual banks in 2021 we followed up our report on how the rules implementing the Payment Accounts Directive were being applied. In 2022, FI is planning to invite representatives from a number of banks and relevant industry organisations to engage in discussions on the high number of consumer complaints about refused or closed bank accounts with basic services. In these discussions we will address, inter alia, the banks' complaints handling. FI also intends to follow up the trend of refused and closed bank accounts as part of its money laundering supervision during the year.



## Risks and priorities

In 2022 FI is going to prioritise two risks for consumers: unaffordable lending and commissions.

### Unaffordable lending

Consumer credit has increased rapidly over the past five years. After a temporary decrease in the growth rate following the outbreak of the coronavirus pandemic in 2020, the annual growth was approximately 7 per cent at the end of 2021.

Consumer credit plays an important role in enabling consumers to buy goods and services when they need them and then spread the cost over time. For example, if a consumer needs to have their car repaired or replace one of their household appliances, credit can help if they do not have enough savings.

The marketing of credit by retailers, lenders and credit intermediaries is intense. Some companies use influencers who clearly target young adults. Others use outreach advertising that is tailored to the consumer's online search history.<sup>7</sup> In retail, there are often agreements between the retailer and the lender that means that both earn money on the consumer buying a product on credit.

Consumers' purchasing habits have changed. Many people currently decide to defer payment rather than paying directly. This is particularly the case for online shopping, which has increased considerably in recent years. For many, it can be a convenient and flexible solution, which also enables them to see a product they have bought online before paying for it. Most invoice credit and payment plans are paid on time, with either no, or only small, additional costs for the consumers. However, at a time of intense marketing when it is common to buy now and pay later, it is important for the consumer to think carefully about whether their own finances can cover a loan that has to be repaid at a later date. Otherwise, the consumer can incur high costs and, in a worst-case scenario, they can have a debt registered with the Swedish Enforcement Authority. Consumers who are unable to pay their debts end up in a vulnerable situation. Payment problems can have financial and social consequences both for the person in debt and their relatives.

In recent years, FI has monitored the development of loans to consumers, for example, through our consumer credit survey.<sup>8</sup> These surveys reveal that in some cases the trend is moving in the right direction, with a reduction in the number of consumers who have early payment problems or who have moved to the next stage and have more serious payment problems. Since the provisions on high-cost short-term credit were changed in 2018, inter alia, by introducing an interest rate ceiling

<sup>7</sup> Rapport 2021:1, Konsument på kredit, Konsumentverket, 2021, pp. 21. Only available in Swedish.

<sup>8</sup> Svenska konsumtionslån, 17 November 2021, Ref. 21-29649. Only available in Swedish.

and cost ceiling, these types of credit have decreased sharply.<sup>9</sup> However, there are still areas where we have identified problems. For example, young people and consumers on low incomes have payment problems more often than other groups, both in terms of early and more serious payment problems. Similarly, consumers who take out a loan from a consumer credit institution are much more likely to have payment problems.

There is a risk of individual consumers obtaining credit that they do not have the financial means to pay back; this risk comes from the extensive marketing of credit, credit checks that do not always meet the requirements of the Consumer Credit Act and lenders who neglect their duty of care in relation to these consumers. Some young consumers have a tough start to their adult life because of debts and records of non-payments that follow them for a long period of time. This remains one of the main risks for consumers on the financial market. Consequently, work on consumer credit remains a high priority for FI in 2022.

### Online shopping encourages indebtedness

When shopping online, the lenders' payment solutions are often integrated with the e-retailer's website or app, and the consumer can choose, for example, to pay by invoice or to have a payment plan as their payment method. There are a number of different factors that determine the way the payment method is presented on an e-commerce platform. The Financial Conduct Authority (FCA), which is the equivalent of FI in the UK, stated in a report that companies that offer payment solutions to online retailers claim that the Buy Now Pay Later options resulted in higher sales. FCA warns of the risk of these payment options and the buying process being designed to encourage consumers to shop more without considering whether they can afford to.<sup>10</sup>

On 1 July 2020, new provisions in the Payment Services Act (2010:751) came into force, which cover the way that payment options for e-commerce must be presented. If a consumer who shops online can choose a payment method without credit, this option must be displayed before all the credit options. A payment method that involves consumption on credit must also not be pre-selected if other payment methods are available. The purpose of this legislation is that when a consumer takes out credit, it must always be the result of an active choice.

FI and the Swedish Consumer Agency share the supervision of how the payment options in e-commerce are presented. The authorities have carried out investigations of e-retailers' payment solutions and, inter alia, pointed out when those that had card payment as the first payment option did not differentiate

<sup>9</sup> Andersson, Aranki and Hult, Färre högkostnadskrediter efter nya regler, FI-analys 22, 2020. An English translation is available at [www.fi.se](http://www.fi.se).

<sup>10</sup> The Woolard Review – A review of change and innovation in the unsecured credit market, Report to the FCA Board, February 2021, p. 47.

between debit and credit cards; or the credit option was highlighted visually in a different colour. As well as targeting payment service providers under the Payment Services Act, the Swedish Consumer Agency has targeted e-retailers who are considered to have been complicit under the Marketing Act (2008: 486). In a report in June 2021 FI stated that several of the actors on the market had adapted their operations to the act, even though there were deficiencies.<sup>11</sup>

Under Section 6 of the Consumer Credit Act (2010: 1846), lenders must observe good lending practice and therefore exercise a duty of care to the consumer. The lender must act judiciously and responsibly towards the consumer both before a credit agreement and during the term of the agreement.<sup>12</sup> This applies regardless of the distribution method or the partners that the lender has chosen. Lenders must have the kind of sales processes that enable consumers to make an informed choice as to whether to take out credit or not.

### Credit intermediaries who encourage loan refinancing must observe good lending practice

FI's Consumer Credit Survey revealed that the most common reason why people take out an unsecured loan is to repay other loans.<sup>13</sup> Converting existing loans to a new one can have benefits for some consumers, but repeatedly refinancing loans and extending them over a longer period of time to reduce monthly payments also increases the total cost. These loans are often annuity loans, where the consumer pays an equal amount on each payment date. This means that they pay a larger share of the interest at the start of the loan period and only amortise a small amount. There is therefore a risk that what could appear to be a good loan offer actually results in the consumer paying a lot in interest over a long period of time without amortising any significant amounts.<sup>14</sup>

FI's Consumer Credit Survey also shows that almost 40 per cent of unsecured loans in 2020 were taken out through a credit intermediary. For the "niche banks", 56 per cent of the loans paid went through a credit intermediary.<sup>15</sup> Lenders usually pay credit intermediaries a commission in the form of a percentage of the borrowed amount or a payment based on fees and interest. For credit intermediaries, this

<sup>11</sup> Marknadsföring av betaltjänster online, 2021, Ref. 21-13000. Only available in Swedish.

<sup>12</sup> Government Bill 2009/10:242, pp. 52 pp. 90.

<sup>13</sup> Svenska konsumtionslån, 17 November 2021, Ref. 21-29649. Only available in Swedish.

<sup>14</sup> The Swedish Consumer Agency has also noted that even if the lender helps a consumer who wants to consolidate their loans to settle existing debts, the lender cannot close a line of credit that is linked to a credit or debit card. If the consumer does not cancel this line of credit themselves, it remains and can be used again. Rapport 2021:1, Konsument på kredit, Konsumentverket, 2021, pp. 23. Only available in Swedish.

<sup>15</sup> According to the definition in Swedish Consumer Credit, "niche banks" often specialise in one or a few areas, for example, consumer credit. This can be compared, for example, to major banks, which generally have a more comprehensive range of products.

means that their income will be higher if more people take out loans by using their services, but also if consumers often refinance their loans and take out larger loans.

Credit intermediaries are obliged to observe the requirements for good lending practice. They must put the consumer's interests first, even if this results in a loss of income as they could lose commission. FI and the Swedish Consumer Agency have shared responsibility for the supervision of credit intermediaries and in 2022 we are going to work together to analyse the role of credit intermediaries in the credit process in more detail. This analysis will be carried out to clarify the role that credit intermediaries play and the responsibility they have when consumers apply for new credit.

### Sufficient data in credit checks regardless of sales channel

According to the Consumer Credit Act, lenders must perform thorough credit checks to ensure that the consumer can repay the loan.<sup>16</sup> FI's survey shows that credit checks are important. The probability of a borrower having payment problems decreases if the lender uses more comprehensive information in its credit check.<sup>17</sup>

A credit check must be based on sufficient data about the consumer. Credit may only be granted if the consumer has the financial means to repay the loan as set out in the agreement. The law is based on the situation and finances of the individual consumer. We would like to emphasise the fact that the lender should use all available information that is relevant in order to make a forecast based on the consumer's actual situation. This could mean that the lender requires access to detailed information or to supplement this with more data. Lenders must therefore have procedures in place that ensure that they can perform a relevant credit check for each individual case. The purpose of the law is to protect individual consumers.

The credit check must be based on sufficient data, which also applies when the lender receives a credit application through a credit intermediary. FI's survey shows that the lender can obtain different data about the consumer depending on whether the lender uses its own channels or a credit intermediary. If the loan has been mediated by a credit intermediary, it is the lender's responsibility to supplement the data collected by the credit intermediary if this information is not sufficient to assess whether the consumer is in a position to repay the loan. The

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<sup>16</sup> However, the lender does not have to perform a credit check for invoice payments. This is in accordance with Section 4 of the Consumer Credit Act (2010:1846), which grants an exception from the requirement for credit checks for interest-free credit (other than lines of credit) that only has a nominal fee, which must be repaid in three months and which relates to a purchase on credit.

<sup>17</sup> Andersson and Förster, Varför får vissa låntagare betalningsproblem?, FI-analys 29, 2021. An English translation is available at [www.fi.se](http://www.fi.se).

choice of sales channel can never justify a credit check being based on insufficient data about the consumer's financial circumstances.

In 2021, we reviewed FI's general guidelines regarding consumer credit. These general guidelines provide guidance to companies under the authority's supervision on how they should act to comply with the requirements of good lending practice and what should be taken into account when performing credit checks.<sup>18</sup> FI would like to stress the importance of a lender observing good lending practice when performing a credit check; lenders must therefore act judiciously and responsibly towards the consumer.

The lender assesses whether a consumer's loan application should be granted on the basis of information on employment, income, expenses, debts and guarantees. It is then important for the lender to ensure that the consumer has the means to pay back the loan, while still enjoying a reasonable standard of living. As part of our supervision work, FI has noted that there are situations where lenders set a basic requirement for borrowers to have an annual income before tax of SEK 100,000–120,000 in order to obtain an unsecured loan. Normally, an income at this level is not enough to cover a consumer's basic living and housing costs. In most cases, this also means that the consumer is not in a financial position to repay the credit.

If the lender uses standardised figures to assess the consumer's expenses, they should include the relevant costs for household consumption. If the Swedish Consumer Agency's reference values for living costs are used, for example, the lender must take into account the fact that they are only based on certain individual and household costs that are essential for everyday living, but they do not include all relevant living costs.<sup>19</sup> FI has noted that some lenders have used estimates for a consumer's expenses that are too low. Housing costs are, for example, a major expense for households and they can vary significantly depending on, for example, the place of residence, type of housing and the standard of housing. It is therefore not normally appropriate to only ask about the consumer's type of housing and replace data from the consumer about their housing costs with a standardised figure.

Lenders should check the data they collect about the consumer. It is then just as important for the lender to actually base its assessment on this data. As part of our supervision work, there have been examples of data having been collected, but not actually used in the assessment of whether credit should be granted.

<sup>18</sup> FFFS 2021:29, Finansinspektionen's General guidelines regarding consumer credit.

<sup>19</sup> These calculations do not include, for example, costs for housing, rent and heating, transport, dental and medical care (except for an annual dental check-up), community services, such as child or elderly care, education, and cafe or restaurant visits. Underlagsrapport 2021:3 Beskrivning av Konsumentverkets beräknade hushållskostnader, Konsumentverket 2021, pp. 11. Only available in Swedish.

## Priorities in FI's supervision of unaffordable lending

FI is going to continue its investigations of lenders' credit worthiness assessments and to see whether they comply with good lending practice. Five cases are currently being investigated for potential sanctions and these investigations will be completed in 2022. During the year, we are also going to initiate new supervisory activities.

FI is going to carry out an in-depth analysis of the role of credit intermediaries in the credit process, in consultation with the Swedish Consumer Agency.

As in previous years, FI will produce a consumer credit survey. This survey comprises information about borrowers, lenders and loans.

We will use the data from these surveys to continue to analyse consumer credit. This kind of analysis focuses on payment problems, broken down by age and gender. We produce this study with the Swedish Enforcement Authority and it supplements FI's previous analyses of payment problems that are linked to credit. In addition, we plan to describe different kinds of amortisation and the way that amortisation payments affect the borrower's finances over time.

FI also monitors developments in the Swedish mortgage market, inter alia, through an annual mortgage survey. The focus is on lending and credit checks for mortgages and the way that companies comply with the amortisation requirement. The examination covers the eight largest mortgage lenders.

Purchases and sales of receivables for consumer credit are going to be the subject of an in-depth analysis during the year.

In 2022 we are also going to produce an international review of consumer credit. The aim is to learn from the effects of the regulations in other countries and to gain greater knowledge of how FI can develop its analysis work. This study will include academic analyses and policy experiences from authorities in other countries.

FI is also going to conduct an in-depth analysis of debt collection activities among small and medium-sized institutions.

## Commission creates risks

Financial instruments can be distributed to a customer by different actors, primarily securities companies, banks, insurance companies and insurance intermediaries. Distribution can take place both with and without advice. If it takes place without advice, the customer chooses the product themselves, often on the distributor's digital platform. In both cases, it is common for the distributor to receive a commission (third-party payment) from the product company, i.e. the company

behind the product.<sup>20</sup> Depending on the way the commission is designed, it can create incentives for the distributor to influence the consumer to buy a specific product. In cases where advice is given, the distributor can directly influence the consumer's purchase by recommending a product with a high commission, even though the product is not suitable for that particular consumer. Even when a consumer chooses a product themselves, the distributor can influence their choices in various ways, for example by the way different investment options are presented on the company's digital platform and in newsletters.

FI has highlighted the risks associated with commission for a long time. In 2018, new and enhanced rules were introduced in this area for both securities institutions (securities companies and banks) and insurance distributors (insurance companies and insurance intermediaries). As a way of studying the effects of these new rules, FI carried out surveys into the way these actors handle commission in 2021. These surveys were presented in December 2021 in two separate reports.<sup>21</sup> They reveal some improvement in the handling of commission. However, we also note that both securities institutions and insurance companies continue to receive large amounts of commission from product companies, particularly fund management companies, both as a result of advice and other forms of distribution. FI assesses that there is still a significant risk of conflicts of interest as a result of commission, something we highlighted in sanction decisions, the above reports and in other external communication in 2021.

### Requirements for receiving commission

As a general rule, securities institutions are banned from receiving commission. However, this ban does not apply if the commission is designed to increase the level of quality of the service in question. Consequently, the institution has to provide the consumer with an additional service or a higher level of service in order to offset the commission received. The service must be in proportion to the amount of commission received and give the consumer a tangible benefit. This commission must not impair the institution's ability to act in the best interests of the consumer.

In its sanction decision for the securities company Nord Fondkommission AB in October 2021, FI stated that there were major deficiencies in the way the company had handled the commission it had received. FI stated that the company had received commission without being able to prove that it had been designed to increase the quality of the service to the consumer (in this case investment advice). The company's inadequate handling of this resulted in unacceptable conflicts of

<sup>20</sup> As a rule, insurance intermediaries receive commission via the insurance companies, i.e. not directly from the product companies.

<sup>21</sup> Uppföljning av de nya reglerna om försäkringsdistribution för försäkringsföretag, 2021, Ref. 21-31667, and Uppföljning av de nya reglerna om provision och oberoende rådgivning, 2021, Ref. 21-31636. Only available in Swedish.



interest in relation to the company's customers. FI pointed out that Nord Fondkommission AB had not specified the amount of commission each customer had generated nor carried out any valuation of the quality-enhancing services that the company claimed it had provided. Neither had the company made any assessment as to whether a specific quality-enhancing service had been in proportion to the commission received and had provided a tangible benefit for the specific consumer.

The commission rules for insurance distributors are designed in a slightly different way. When distributing, for example, unit-linked insurance, including underlying funds, insurance distributors may only receive commission if the payment has no negative impact on the distribution service or the insurance product. This commission must also not impair the insurance distributor's ability to act in the best interests of the consumer. It must not be so high that it is clearly disproportionate to the services that have been provided.

In summary, both regulations mean that commission may not create conflicts of interest with the consumer that are not addressed. FI would like to stress how important it is for companies to ensure that any commission received complies with the requirements under this legislation.

### Fund commission

The highest volume of commission is paid to distributors of funds. Fund commission is paid regularly to these distributors as a proportion of the management fee that the fund management company or manager charges from the fund. Approximately half of the management fee is normally paid to the distributor. As management fees vary depending on the fund, commission depends on the funds that the consumer buys. Consequently, the more expensive a fund that is distributed to the consumer is, the higher the payment that the distributor will receive. We have seen examples where the fund commission can be ten times higher or more, if the consumer buys an actively managed fund instead of an index fund.

FI's assessment is that such significant differences create conflicts of interest that are difficult to handle, both when funds are distributed with or without prior advice. FI expects companies to review their handling of commission if there are significant differences in the remuneration levels.

### Trading without prior advice

As consumers are increasingly trading by themselves, it is important to stress that the same requirements for receiving commission apply, regardless of whether the securities institution or the insurance distributor distributes a financial instrument with or without prior advice. These rules therefore also apply when a securities company provides a digital platform where the customer trades by themselves.



If the company receives commission, it must ensure that the requirements for receiving commission are met, even when the consumer chooses instruments without prior advice. For securities institutions, this includes, inter alia, providing quality-enhancing services, while for insurance distributors, this includes, inter alia, the commission not being clearly disproportionate to the services provided. The companies that receive commission for this kind of distribution have a significant explanatory burden; they need to explain how they ensure that the rules are observed, particularly when companies provide trading in instruments where there are significant differences in remuneration levels. It is not sufficient to refer to the fact that consumers receive clear information about commission, which is what some companies sometimes do.

### Priorities in FI's supervision of commission

In 2022, FI is going to continue to prioritise its work on commission. FI intends to do this through investigations and as part of its ongoing supervision activities, inter alia, by collecting information about specific companies and by engaging in regular dialogue with both securities institutions and insurance companies.

During the year, we are also going to continue to analyse the problems that are linked with commission. We will do this, inter alia, against the backdrop of the kind of impact the changes in regulations in recent years have had, the way the market works and what has emerged from FI's sanction cases. Our starting point is to ensure a high level of consumer protection. This analysis will be important for FI's position in future discussions about potential regulatory changes or other measures.

## Broad focus on a high level of consumer protection in FI's work

As well as highlighting the risks of unaffordable lending and commission, we are working to provide a high level of consumer protection in a number of different areas. One example is FI's analysis in 2022 about whether insurance premiums are higher for those who do not switch insurance companies as often compared with others in the same risk group. Other examples include our survey of whether the fund management companies' actively managed funds are in fact closet index funds, and FI's warnings about investing in risky cryptocurrencies or about falling victim to insurance fraud.

### Do loyal policyholders have to pay premiums that are too high?

One consumer risk, particularly for non-life insurance, is the unfair treatment of loyal policyholders.<sup>22</sup> This can occur when insurance companies raise the insurance premiums more for customers who are likely to renew their insurance than for other policyholders. This means that loyal policyholders have to pay a higher premium than other customers in the same risk group. The risk of unfair treatment increases as insurance companies receive more data about policyholders and develop more advanced analysis methods.

The supervisory authorities in the United Kingdom and Ireland have examined whether this kind of pricing, also known as 'price walking', occurs in home insurance and car insurance.<sup>23</sup> Both supervisory authorities have found that insurance companies often initially price their insurance low to attract new customers and then increase premiums over time. These price increases are higher than justified based on the risks for the policyholders who are loyal and do not switch insurance providers. These examinations revealed that the consumers often find it difficult to understand the way insurance companies price insurance for renewals, and many people believe that an increase in the premiums reflects a higher risk for the collective. The examinations also revealed that price

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<sup>22</sup> See, inter alia, the Consumer Trends Report, the European Insurance and Occupational Pensions Agency EIOPA, 2021; and the Framework for Assessing Conduct Risk through the Product Life Cycle, EIOPA, 2019.

<sup>23</sup> See the reports General Insurance Pricing Practices, Market Study MS18/1.3, Financial Conduct Authority, 2020; and Review of Differential Pricing in the Private Car and Home Insurance Markets, Central Bank of Ireland, 2021.

discrimination particularly affects older consumers and consumers who are not financially savvy.

Consumers who frequently switch insurance providers benefit from this kind of pricing. However, the UK supervisory authority reports on a number of other disadvantages, not only the fact loyal policyholders have to pay premiums that exceed their risk. A pricing model where insurance companies set low initial premiums for insurance can risk distorting competition. It means that competition is not based on which insurance product offers the best protection in relation to their premiums over time, but instead which insurance company offers the lowest premiums for new customers. It also means that insurance companies have high acquisition costs to attract new customers; costs that have to be borne by their existing policyholders. This kind of pricing incurs costs for consumers as well, as they have to spend time searching for new insurance providers that offer low initial premiums. Ultimately, this risks eroding trust in the insurance industry.

Since 1 October 2018, insurance companies have been covered by new rules on insurance distribution. This means, inter alia, that insurance companies must carefully look after the best interests of each customer and act honestly and fairly. It also means that insurance must be designed based on the customers' needs. The insurance companies therefore have a responsibility to treat each individual policyholder fairly and to ensure that the products meet their needs. It should therefore be difficult for companies to justify premiums being determined differently based on how likely it is that policyholders will renew their insurance policies. This may also contravene what may be considered to be good insurance standards under the Insurance Business Act. FI notes that the industry organisation Insurance Sweden also believes that policyholders in the same risk group should be treated equally.<sup>24</sup>

In 2022, FI is going to analyse whether there is unfair treatment of loyal customers in Sweden as well for home, house and car insurance; three products that are important for many consumers.

## Closet index funds

It is important consumers receive the products they have been promised and pay for. In 2021 FI carried out an in-depth analysis of the level of activity in funds, which also took into consideration the new information requirements that came into force on 1 January 2020. The aim was to identify funds that are described as active, but in practice are managed passively – also known as 'closet index funds'. Our focus was on funds that are described as active funds, while having a low level

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<sup>24</sup> Riskbedömning och premiesättning, Insurance Sweden's website, <https://www.svenskforsakring.se/om-forsakring/riskbedomning-ar-inte-diskriminering-om-premiesattning-och-likabehandling/>. Only available in Swedish.

of activity reported and a relatively high fee. This analysis included examining how the fund managers identify and follow up indications that their active funds have a low level of activity.

In this analysis, FI looked at key performance indicators, such as active risk and information ratio, to identify potential index funds. ‘Active risk’ is a key performance indicator that measures how much the fund’s return varies in relation to the index. ‘Information ratio’ is a measure to evaluate whether the active management produces a positive result in relation to the index. FI has looked at what information ratio is required (how skilled the manager must be) to be able to compensate for the fee for active management. The analysis took into account asset allocation within the funds and data from the past five years. FI’s assessment was that 19 of the 28 funds in the analysis were potential closet index funds. These included funds managed by the largest fund management companies on the Swedish market.

FI’s analysis also showed that fund managers have very different policies and procedures in place when it comes to oversight and follow-up. We judged that some fund managers’ arrangements in this regard were inadequate to identify and mitigate instances where activity levels became low. Some companies also do not have any procedures for regular feedback to external managers. In terms of the new information requirements to publish an explanation of the level of activity that had been reached, FI noted that the explanation was often inadequate or difficult for the consumer to understand.

Funds must not be described as active if they are not actively managed. All fund management companies must have procedures in place to monitor activity levels over time and take action when an active fund is showing signs of an excessively low level of activity. The fund management companies must also consider what is a reasonable level of activity for the fund to be described as being ‘actively managed’. The information to the consumer about the level of activity must be accurate and easy to understand.

FI notes that some fund management companies did not comply with the requirements set out in the regulations. As the information requirement for the level of activity is new, we will initially communicate our findings to the fund managers concerned. If we do not observe improvements in the market, we will consider other measures.

## Crypto-assets

A crypto-asset is a digital asset that is transferred and stored encrypted on a distributed database.<sup>25</sup> In recent years, there has been a marked increase in consumer demand for crypto-assets and in financial instruments with cryptoassets as the underlying asset.

Crypto-assets pose significant consumer risks. FI and other authorities around the world have warned that the high price volatility associated with crypto-assets can result in consumers losing a lot of money. Crypto-assets such as Bitcoin lack intrinsic value. This makes them difficult, if not impossible, to accurately value. Many people who buy crypto-assets do so for purely speculative reasons. In February 2021, FI published a supervisory report on financial instruments with crypto-assets as an underlying asset, where we warned that these instruments are unsuitable for most, if not all, consumers. In March 2022, European regulators issued a joint warning on the risks posed by Bitcoin and other crypto-assets.<sup>26</sup>

The police have also identified that crypto-assets are used for criminal purposes, such as for money laundering, terrorist financing and potentially to circumvent sanctions. Companies that offer trading in crypto-assets have to register with FI and comply with the money laundering rules. In October 2021, FI initiated two investigations into companies that trade in crypto-assets to see if they comply with the anti-money laundering rules.

The production of crypto-assets is highly energy intensive, with a significant negative impact on the climate. The Director Generals of both FI and the Swedish Environmental Protection Agency have therefore called on the EU to investigate a ban on the energy-intensive consensus method ‘proof of work’.<sup>27</sup>

There are currently no consumer protection regulations in place for crypto-assets, and companies offering crypto-assets are not under the supervision of FI. The European Commission has produced a proposal for a regulation, known as the MiCA regulation<sup>28</sup>, to increase consumer protection, to provide legal certainty and to counteract risks of financial instability.

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<sup>25</sup> A distributed database is a decentralised way of storing data, where the information is stored on many different computers and without any central party responsible.

<sup>26</sup> EU financial regulators warn consumers on the risks of crypto-assets, ESA 2022 15, EBA, ESMA and EIOPA, 2022.

<sup>27</sup> Kryptotillgångar hotar klimatomställningen – energikrävande utvinning bör förbjudas, FI’s website, 5 November 2021. Only available in Swedish. ‘Proof of work’ is currently the most common way to produce crypto-assets. This extraction method also works to secure the network.

<sup>28</sup> Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937, COM (2020) 593 final.

## Investment fraud is on the rise

Questions and complaints from consumers who have been conned by investment fraud make up a considerable proportion of the complaints received by FI. Every year, thousands of consumers in Sweden are victims of investment fraud. This is mainly the kind of fraud where the victims have been offered ‘CFD contracts’ (contracts for difference, a type of derivative), that are often linked to cryptocurrencies. Consumers invest their money, but get nothing back in return as the money disappears immediately. Some consumers who have already fallen victim to investment fraud are contacted again and offered help to recover lost money for a fee, which leads to further losses.

The amounts involved in this kind of fraud vary and losses of between SEK 300,000 and SEK 500,000 are common. FI has also seen several examples where people have been cheated of several million SEK. It causes a great deal of financial and emotional suffering for the individual concerned. At the same time it risks eroding trust in reputable financial companies.

Investment fraud also finances serious crime. A report from the Swedish Police Fraud Centre reveals that almost half of all fraud cases can be linked to organised crime.<sup>29</sup>

Investment fraud has increased over several years. Every year, FI warns of bogus companies that can be assumed to be fronts for ongoing fraud. The number of warnings has increased by around 30 per cent per year since 2018. One contributing factor is that social media has created an infrastructure for fraudsters to reach out more widely with their fraudulent schemes. It has also given them new ways of getting into direct contact with crime victims more easily.

Investigating fraud is difficult. It is therefore particularly important to work preventively using information and education. FI provides continuous information about current investment fraud and what you should look out for to prevent yourself from becoming a victim. We disseminate this information through several communication channels and to the media to try to reach as many consumers as possible.

By increasing public awareness of the kinds of schemes that fraudsters use, we will hopefully be able to reduce the number of people who will be affected by this. FI will continue to prioritise this issue.

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<sup>29</sup> De organiserade bedrägerierna – en rapport om bedrägerierna kopplade till organiserade kriminella miljöer, Swedish Police, 2021. Only available in Swedish.

# Experiences from supervision and measures to increase consumer protection

In this section, we report on a selection of the supervisory initiatives and measures that FI implemented in 2021 that focus on consumer protection.

## Insurance

- In 2020–2021, FI conducted an investigation into how five life insurance companies with a relatively large proportion of their own sales of insurance complied with the rules on insurance distribution. These investigations showed, inter alia, that the companies in the selection had internal rules in place for remuneration systems that complied with the regulatory requirements.
- In its letter of appropriation for 2021, FI was tasked with reporting on the impact that the new rules on insurance distribution (based on the ‘IDD Directive’<sup>30</sup>) have had on the insurance market. FI’s survey shows, inter alia, that companies have made several changes to their remuneration systems and that the commission levels among insurance intermediaries (measured as a percentage of the amount invested) have fallen and that ‘up front commissions’ have disappeared.<sup>31</sup>
- FI carried out an in-depth analysis of complaints handling at 20 selected insurance companies in 2021. In general, complaints were handled satisfactorily in the selected companies, but there is room for improvement.<sup>32</sup>
- In 2021, FI carried out an in-depth analysis of payment amounts in unit-linked insurance. We were able to establish that there are differences between the companies in the survey that affect the size of the payment amounts, such as how inheritance profit is handled, assumptions about mortality and how payments are expected to be made during the payment period. The results have since been used in FI’s supervisory planning.

<sup>30</sup> Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (IDD).

<sup>31</sup> Uppföljning av de nya reglerna om försäkringsdistribution för försäkringsföretag, 2021, Ref. 21-31667; and Uppföljning av de nya reglerna om provision och oberoende rådgivning, 2021, Ref. 21-31636. Only available in Swedish.

<sup>32</sup> FI-tillsyn nr 24, Försäkringsföretagens klagomålshantering, 2021. Only available in Swedish.

## Consumer credit and payments

- Over the year, FI continued its work on the five investigations it had started on lenders' credit checks for consumer credit. In September 2021, FI's Chief Legal Counsel decided that all cases should undergo a sanctions assessment.
- FI published new general guidelines on consumer credit, where the focus was on good lending practice and credit checks.<sup>33</sup> In these guidelines, FI clarifies, inter alia, the requirements for the lenders' duty of care when performing these credit checks.
- FI conducted a survey of the consumer credit market.<sup>34</sup> In this survey, we collected data on new borrowers from 36 companies. The report summarises and describes what the market is currently like and the way it has developed in recent years.
- During the year, FI conducted several analyses of consumer credit and payment problems: Why do some borrowers experience payment problems?<sup>35</sup> Lån, betalningsproblem och skuld hos Kronofogden (in collaboration with the Swedish Consumer Agency and the Swedish Enforcement Authority);<sup>36</sup> and Långivarens betydelse för betalningsproblem och skuld hos Kronofogden (in collaboration with the Swedish Enforcement Authority)<sup>37</sup>. Only available in Swedish. In this latter analysis, it was found that the business models of companies reveal their risk tolerance, inter alia, by the way they perform their credit checks. A relatively high proportion of people who borrow from consumer credit institutions end up with debts registered with the Swedish Enforcement Authority.
- FI published a report on the impact of the new provisions in the Payment Services Act, which state that the credit option must not be placed first or be pre-selected for payments online if there are other payment options available that do not involve buying on credit.<sup>38</sup>
- FI and the Swedish Consumer Agency jointly submitted a formal request to the Swedish Government to set up an inquiry into introducing a system that gives lenders and the consumers themselves the opportunity to get an overall picture of the consumer's debts (debt register) when a credit check

<sup>33</sup> FFFS 2021:29, Finansinspektionen's General guidelines regarding consumer credit.

<sup>34</sup> Svenska konsumtionslån, 17 November 2021, Ref. 21-29649. Only available in Swedish.

<sup>35</sup> Andersson and Förster, Varför får vissa låntagare betalningsproblem?, FI-analys 29, 2021. An English translation is available at [www.fi.se](http://www.fi.se).

<sup>36</sup> Andersson, Bergling and Üye, Lån, betalningsproblem och skuld hos Kronofogden, FI-analys 32, 2021. An English translation is available at [www.fi.se](http://www.fi.se).

<sup>37</sup> Andersson and Üye, Långivarens betydelse för betalningsproblem, FI-analys 35, 2021. An English translation is available at [www.fi.se](http://www.fi.se).

<sup>38</sup> Marknadsföring av betaltjänster online, 2021, Ref. 21-13000. Only available in Swedish.



is performed.<sup>39</sup> This is an issue that FI has raised in its two most recent consumer protection reports. We are therefore pleased that the Swedish Government has now set up an inquiry which will, inter alia, analyse this issue.<sup>40</sup>

- FI and the Swedish Consumer Agency, in collaboration with the Swedish Enforcement Authority, invited a number of key market actors to engage in discussions on the risks on the consumer credit market and the actions that need to be taken to increase consumer protection. During this meeting, the need for a ‘blocking service’ was discussed, where consumers can voluntarily block themselves from taking out a loan for a set period of time. If this is going to be effective and helpful to the consumer, it is important for the majority of the actors on the market to commit to such a block. FI, the Swedish Consumer Agency and the Swedish Enforcement Agency called on the industry to take responsibility and jointly look at what opportunities are available.
- FI published its annual mortgage survey, where we analyse household loans and the associated vulnerabilities for households, banks, and, by extension, macroeconomic growth and financial stability.<sup>41</sup>
- FI published personal finance tips on our website fi.se, including what consumers should think about before taking out a new loan.

## The securities market

- In 2021, FI conducted surveys on, inter alia, the advice given by companies and how they handle conflicts of interest. FI withdrew the authorisation from one of the companies under investigation, Nord Fondkommission AB.
- During the year, FI also completed investigations into a number of fund management companies. One investigation looked at the liquidity risk management of a fund management company in order to investigate whether the company had an adequate process in place for managing liquidity risks. Another investigation looked into the way a fund management company had valued the funds’ assets. The reason for the investigation was the difficulties in valuing corporate bonds in the spring of 2020. FI also investigated the way that a foreign fund management company had applied the rules in its marketing of a fund in Sweden.

<sup>39</sup> Hemställan om utredning av förutsättningarna för ett system med uppgifter om konsumenters totala skuldsituation, 26 October 2021, Ref. 21-27173. Only available in Swedish.

<sup>40</sup> Dir. 2021:108, Motverka riskfylld kreditgivning och överskuldsättning. Only available in Swedish. A special investigator will examine the consumer credit market and propose measures to counteract risky lending and over-indebtedness.

<sup>41</sup> Den svenska bolånemarknaden, 24 March 2021, Ref. 21-4799. An English translation is available at [www.fi.se](http://www.fi.se).

- FI carried out an in-depth analysis of costs and fees in UCITS. The analysis was part of a joint supervisory activity that involved several EU countries. This work provided knowledge of the ways that national supervisory authorities perform supervision in this area. By increasing the level of harmonisation, investors in the EU can be better protected from fund management companies and AIF managers that charge unnecessary costs and fees.
- FI collected information on how fund managers (785 funds and 69 managers) have adapted to the EU's new Sustainable Finance Disclosure Regulation (SFDR). The survey shows that a majority of the Swedish funds are categorised as sustainable products, as they either promote environmental and/or social characteristics or have sustainable investment as their objective. We found that the categorisation of many Swedish funds involves strict requirements for the information that is submitted, and that some fund managers may need to better adapt their information provision to the fund's investment strategy. In 2022 FI is going to take a closer look at the Swedish funds that are categorised as 'Article 9 funds', which therefore have sustainable investment as their objective. According to the regulations, the fund managers must provide specific information about these funds to investors. We are going to carry out a survey of these funds to provide a picture of how this information is presented to investors.
- FI conducted an annual survey of fund fees and risk levels for approximately 70 fund managers. This data will provide a basis for supervision in the coming years and an analysis of UCITS and special funds.
- FI published a supervisory report on liquidity risk management in funds and also submitted a report to the Swedish Government that the Government had commissioned.<sup>42</sup> In the latter, we provided the government with proposals for acts and regulations that would provide fund management companies with more tools/more effective tools for managing liquidity risks.
- FI started work on the level of activity in funds. This in-depth analysis, which covers 28 funds, will be completed in 2022.
- In 2021, FI gave warnings about 2,759 bogus companies that pretend to conduct financial activities, as part of its work to combat investment fraud.

## Consumer information and financial education

- FI largely communicates with companies under our supervision. In 2021, more communication was targeted directly at consumers, including personal finance tips and information about fraud. For sanctions, the

<sup>42</sup> FI-tillsyn nr 22, Likviditetsriskhantering i fonder, 2021, and Likviditetsverktyg i värdepappersfonder och specialfonder, 2021, Ref. 21-3338. Only available in Swedish.

content that has a more direct impact on consumers is communicated separately to ensure that it reaches them.

- Working with other authorities, organisations and private companies, FI develops educational projects for consumers that are aimed at specific target groups within a national network.
- The course ‘Trygga din ekonomiska framtid’ (Protect your Financial Future) covers a broad spectrum of topics and is suitable for those who meet people as part of their work, who they can pass this knowledge on to. During the year, deacons and other professional groups that meet people who are financially disadvantaged were trained.
- During the year, FI took part in ‘Pensionskunskap’ (All about Pensions), an educational project for future HR managers and economists at several colleges and universities.
- FI has launched an e-course in personal finance. Experts from the network give lectures on, inter alia, budgets, consumer law, insurance, savings, loans, pensions, family law and how to avoid fraud. This course is open to everyone.
- ‘Pengalabbet’ (The Money Laboratory), which used to be a mobile app, was transformed into a website in 2021. The game has been produced in collaboration with the Swedish Economy Museum and is used to teach school children in years 4 to 6 (ages 10 to 13). In the autumn of 2022, a new curriculum was introduced for the subject ‘Home and Consumer Studies’ that is taught at compulsory school, and a new development of the content in The Money Laboratory was tested among school children in year 9 (ages 15 to 16).
- FI has already worked with other authorities and organisations to produce educational material on personal finances for first-time parents. During the year, work began on developing this material, by supplementing it with a digital component.
- FI co-financed a report on children’s understanding of the value of money. The conclusion was that it is possible to teach children about the value of money without using cash.
- FI coordinated and also participated in World Investor Week and Global Money week.

## Need to develop rules

As set out in our instructions, FI has to report on the need to develop rules. We would like to highlight two areas. The first is about the calculation of the interest rate differential charge when a consumer redeems a mortgage. The second area is about the way that liquidity in certain funds can be secured.

### It should be cheaper and fairer for consumers when they cancel fixed mortgages

A consumer who cancels a mortgage with a fixed interest rate (for example, if they are going to move or want to switch banks) pays what is known as an ‘interest rate differential charge’ to the bank. The rules for calculating this interest rate differential charge under the Consumer Credit Act normally means that it is generally expensive for consumers to cancel a mortgage with a fixed interest rate. This is because the difference between the consumer’s borrowing rate and the comparative interest rate used to calculate the charge does not capture changes in the general interest rates effectively. As the amount of the charge is determined based on the interest rate that the consumer is paying for their mortgage (the higher the interest rate is, the higher the charge), different consumers pay different amounts, even though the costs to the bank are the same.

Mortgages with fixed interest rates have become more common in recent years.<sup>43</sup> Fixed interest rates reduce household sensitivity to rising interest rates. Although there are advantages of more households locking in their interest rate, it can also lead to more borrowers ending up in a situation where they have to pay a high interest rate differential charge, as many can be expected to cancel their mortgage agreement in advance. It is therefore important to review the rules for how the interest rate differential charge is calculated.

FI has therefore submitted a request to the government to produce a bill that contains new rules on calculating the interest rate differential charge.<sup>44</sup> Our request also contains a proposal for how this charge should be calculated. According to FI’s proposal, the payment should be based on changes in the general interest rates that have taken place since the loan was taken out, without taking into consideration the specific interest rate that the consumer pays on their mortgage.

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<sup>43</sup> In the most recent mortgage survey, almost 50 per cent of new mortgage borrowers had a (volume-weighted) fixed interest period of more than one year for their new mortgages. This was approximately 10 percentage points higher than in 2019 and 20 percentage points higher than in 2016. Den svenska bolånemarknaden, 24 March 2021, Ref. 21-4799. Only available in Swedish.

<sup>44</sup> Hemställan om ändring av reglerna om ränteskillnadsersättning, 23 February 2022, Ref. 22-2458. (Only available in Swedish).

By taking this approach, the charge will generally be lower, particularly for those who pay a high mortgage interest rate.

Consequently, it would be more attractive for borrowers who want to reduce their interest rate sensitivity to choose a fixed interest rate, if the interest rate differential charge was better designed. An interest rate differential charge that is better designed would also address the unequal treatment, which sees consumers with weak bargaining power paying more when they cancel their mortgage. This also promotes competition in the mortgage market by reducing the risk of this charge being an obstacle for consumers with fixed interest rates to switch banks. Finally, a charge that is better designed could help increase mobility on the housing market for households with fixed mortgages.

Sweden is now entering a period of rising inflation and expectations of higher interest rates. It is therefore particularly important for households to be able to secure their housing costs by locking in the interest rate for their mortgage rates, without being hit by demands for an unjustified high charge if they later decided to cancel their mortgage in advance.

## Additional tools to manage liquidity risks in funds and protect fund savers

The start of the coronavirus pandemic in the spring of 2020 saw unrest and uncertainty on the financial markets. This had consequences for the fund market, particularly in Sweden, which saw extremely large outflows from Swedish corporate bond funds. This, in turn, resulted in the fund managers being forced to sell bonds to meet the fund savers' redemption demands. These events show how important it is for fund managers to be able to manage liquidity risks in their funds and to be prepared to meet their obligations, including in stressful situations, for example in the event of unexpectedly large outflows. Consequently, it would be valuable, in terms of consumer protection and stability, for fund managers to have access to effective liquidity management tools. Good liquidity risk management in a fund naturally requires more than just access to these kinds of tools, but they are an important component in the fund managers' management of liquidity risks. FI therefore believes that it is important, both in terms of consumer protection and stability, for fund managers to have access to appropriate liquidity tools.

However, fund managers currently have limited access to liquidity tools, and the legal framework for some of the tools that already exist should be clarified and developed, according to FI. In a report to the government, FI has therefore

proposed new legislation for what is known as ‘swing pricing’, anti-dilution levies and redemption gates for UCITS and special funds.<sup>45</sup>

Swing pricing is a tool that is used by fund managers to redistribute costs that the fund incurs when the fund’s assets are bought and sold. These costs are redistributed to the unit holders who cause the costs in the fund by subscribing for or redeeming units. This is carried out by adjusting either the fund unit value or the sale and redemption price of the fund units. FI’s assessment is that this latter method can be applied in accordance with current Swedish fund legislation, while the former is not permitted.

A similar tool is anti-dilution levies that are charged by unit holders when they subscribe for and redeem units. The reason for this is to cover the fund’s costs for the purchase and sale of the underlying assets in the fund, but unlike swing pricing, this is achieved by the unit holders paying a fee.

Redemption gates enable fund managers to postpone redemptions that exceed a pre-set limit, for example, a certain percentage of the fund’s assets. This can enable the manager to sell assets in an orderly manner and avoid fast and potentially costly sales, which can also have spillover effects and trigger new withdrawals and even larger sales at a time when the market is already strained.

The issue of liquidity management is also being addressed at EU level.<sup>46</sup> The European Systemic Risk Board (ESRB) and the European Securities and Markets Authority (ESMA) have also previously requested a harmonised regulatory framework for liquidity tools.<sup>47</sup>

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<sup>45</sup> Likviditetsverktyg i värdepappersfonder och specialfonder, 2021, Ref. 21-3338. Only available in Swedish.

<sup>46</sup> Negotiations are currently underway for Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 and Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).

<sup>47</sup> Recommendation of the European Systemic Risk Board of 7 December 2017 on liquidity and leverage risks in investment funds (ESRB/2017/6); ESMA’s letter to the European Commission Ref: Review of the Alternative Investment Fund Managers Directive, 18 August 2020, ESMA34-32-550. See also ESMA’s report Recommendation of the European Systemic Risk Board (ESRB) on liquidity risk in investment funds, ESMA34-39-1119, 2020.