



FINANSINSPEKTIONEN

Consumer Protection Report 2020

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Summary

Finansinspektionen (FI) will prioritise two consumer protection risks for further work in 2020: unaffordable lending and unsuitable advice and distribution of financial products to consumers who were not part of the product's original intended target market. FI will also assess the adequacy of claims handling for home insurance. This report summarises the work that FI has done on consumer protection-related issues during the past year. The report further outlines the need for the Government to consider legislative changes in order to enable credit providers to access a comprehensive view of a consumer's outstanding credit commitments and credit history.

Non-mortgage retail lending has experienced sharp growth over a longer period. More and more retail service providers are actively encouraging customers to “buy now and pay later”. This growth in lending has increased the risk that consumers take out more debt than they can afford. This can lead to over-indebtedness, with severe consequences for the individual consumer. It is therefore key that credit providers lend responsibly. They may only provide credit in instances where they have assessed that a consumer has the means to repay what they have borrowed. In order to conduct an adequate creditworthiness assessment, firms must collect sufficient information about the consumer's individual circumstances. Providers have a duty of care to ensure that they do not lend more than the consumers can afford with regard to their income and financial situation. They are also required to more broadly consider what is in the best interest of the consumers and should discourage them from taking out credit where doing so might be disadvantageous for them. FI is going to look in more detail at the adequacy of credit providers' creditworthiness assessments as part of its supervisory work in the coming year.

FI will also prioritise work related to product governance and financial advice, areas where consideration of a customer's individual circumstances and needs is paramount. Technological change and an increased uptake of products through digital channels has transformed the way that consumers interact with firms. Consumers are now presented with a very large offering of products from Swedish and foreign providers, many of whom are highly complex. Consumers will always be at an informational disadvantage when it comes to assessing the suitability of a financial product for their needs. Firms who are involved in the design, distribution and/or advising on products have a duty of care towards the consumer, and the onus is therefore on them to ensure that they act responsibly.

FI will undertake supervisory work to explore the adequacy of claims handling procedures by home insurance providers in the coming year. The uptake of home insurance as a financial product is high, with the

majority of households holding a policy. It is therefore important to ensure that in instances where a customer needs to make a claim, firms handle this quickly and effectively.

The duty of care is the first priority

Consumers are faced with a large number of difficult decisions in the financial market. The payment services market offers new services that are often characterised by speed, with the consumer having to deal with technical functions and security solutions. The retail sector offers goods together with credit, with the consumer sometimes quickly having to get a handle on the consequences of the offer of credit. Early in life, consumers are faced with choosing pension schemes where it is only possible to establish the outcome and costs at a point far in the future. A long period of low interest rates also means that it may be difficult to find savings products that provide a good return without taking risks.

In this environment, a great deal of responsibility is placed on the firms operating in the financial market in terms of which products they produce and distribute and what advice they provide. The fact that a certain financial product exists and is possible to market or that a technical solution, which may truly be both quick and simple, is possible to develop, need not mean that the service or solution is appropriate to offer to all consumers.

FI published a framework for consumer protection in 2017.¹ This framework describes how three overarching conditions have to be met in order for consumers to be regarded as having a high level of protection in the financial market:

- Consumers' assets with financial firms are secure, and the firms follow signed agreements that have reasonable terms and conditions.
- Consumers receive relevant and comprehensible information.
- Financial firms demonstrate that they are mindful of consumers' interests and consider consumers' needs and circumstances; they have a duty of care.

The duty of care is central to consumer protection and is something that firms must constantly take into account in their operations and their business decisions. The duty of care is expressed in various parts of the legislation, sometimes in conjunction with rules pertaining to "generally accepted practices". Linked to the measures for strengthening consumer protection in the financial market that are highlighted in this year's consumer protection report and which FI will be specifically focussing on in 2020 it is worth mentioning sound lending practices and sound distribution practices.

¹ A Framework for Consumer Protection, 2017, FI ref.17-7487.

Sound lending practices involve protecting the interests of consumers when they are being offered credit. Credit providers' responsibilities include contributing to preventing consumers from taking on more debt than is appropriate in view of their income and other financial circumstances. They have to be given all the necessary information and explanations. If a loan appears unfavourable to a consumer in an individual case, the credit provider should advise against it.

Insurance distributors – insurance companies and intermediaries – must adhere to sound insurance distribution practices. This includes adapting their advice to the needs and desires of the customer and only recommending solutions that are appropriate for the consumer. The distributor must advise against a consumer taking out insurance policies or making other decisions that cannot be regarded as appropriate in view of their needs, financial situation or other circumstances.

In other words, the scope of the duty of care includes not selling more complex or risky savings products, issuing larger loans with higher interest rates or more expensive and extensive insurance policies than is justified by the consumer's needs. Short-term self-interest cannot be allowed to influence how firms act towards their customers. For the vast majority of consumers, this involves meeting basic needs – to pay, save, borrow and insure themselves – in as simple and inexpensive a way as possible. If the cost and complexity increases, this places even greater demands on the firm to prove that it has complied with the requirement under the duty of care. It goes along with this that it becomes important for firms to consider whether their business models and sales format are consistent with the duty of care.

The consumer is generally at an informational disadvantage compared with firms and many people also think that financial services are hard to understand (see the fact box on page 7). This is something that firms must take into account in the information they provide and their sales activities. In a highly competitive market where products are developed quickly, this places demands on firms. An important aspect of FI's supervision is assessing whether firms' business models, sales formats, organisations and international incentive structures place the interests of consumers at the forefront.

This report fulfils FI's duty to report the Government on its work with consumer protection in accordance with Section 3, point 4 of FI's instructions.²

² Finansinspektionen's Instructions Ordinance (2009:93).³ Financial Literacy Around the World: Insights from the Standard & Poor's ratings services global financial literacy survey, 2015.

LOW LEVEL OF KNOWLEDGE AND INTEREST IN FINANCIAL SERVICES AMONG CONSUMERS

Consumers' financial literacy is a key concept in the effort to educate the general public about finance. This involves consumers being able to understand information and adapt their behaviour accordingly. However, this does not mean gauging knowledge of products and services. In Sweden, the level of financial literacy is relatively high compared with other countries. In spite of this, 29 per cent of the Swedish population do not have the basic knowledge to understand financial information.³ Consumers generally have limited knowledge about savings, savings products and investments.⁴ FI can see a number of risks to consumers resulting from a lack of financial literacy. These relate to consumers buying products that are not appropriate for them, paying a higher price than necessary, or lacking certain products and thus, for example, not having the insurance cover they need.

Financial education is important to FI. FI has a coordinating role as part of the network *Gilla Din Ekonomi*⁵. In 2020, FI will be improving the teaching materials used in Swedish for immigrants (SFI) classes. These materials cover Swedish personal finance terminology, provide an introduction to the Swedish banking and payments system and clarify important rights and obligations in simple Swedish. FI will also be focussing on training household and consumer education teachers and developing FI's education project for senior citizens. The education programmes for senior citizens are aimed at representatives of some of Sweden's largest senior citizens' organisations. The programmes involve improving pensioners' knowledge of matters such as consumer rights, digitalisation, banking, finance, state housing subsidies, tax, debt, investment fraud, insurance policies and everyday legal issues. In 2020, FI will also continue to distribute the materials that have been produced for expectant parents. See also page 36.

³ Financial Literacy Around the World: Insights from the Standard & Poor's ratings services global financial literacy survey, 2015.

⁴ Konsumentrapporten 2018 [Consumer Report 2018], Swedish Consumer Agency, 2018.

⁵ Gilla Din Ekonomi is a network of authorities, organisations and firms that cooperate on matters pertaining to personal finance public education and provides education concerning personal finance. www.gilladinekonomi.se

Risks and priorities

This part of the consumer protection report describes two of the consumer protection risks that FI is prioritising in 2020: unaffordable lending and unsuitable advice and sales of products to consumers who are not part of the target market for which the product was originally intended. In addition to this, claims handling by home insurers is an important issue as home insurance is a product that covers a significant portion of the population.

UNAFFORDABLE LENDING

Non-mortgage retail lending and consumers who have difficulties with repayment

The potential to borrow money is important for both individual consumers and for the economy as a whole. A consumer who is not able to finance a purchase with savings is still able, with the help of a loan, to complete the purchase and spread the repayments over a certain period. It is also beneficial to consumers for there to be well-functioning competition in the credit market as this contributes to a wider range of products and suppresses prices.

At the same time, credit providers have a great deal of responsibility. They are only allowed to provide credit if they deem the consumer to be capable of fulfilling their obligations under the credit agreement.

For many consumers, the largest investment they make in their life is the purchase of a home. Consequently, it is important that credit providers, when granting mortgages, ensure that the consumer has sufficient margins to cope with amortisation and interest payments even if the circumstances change due to, for example, higher interest rates. Aside from mortgages, non-mortgage retail lending⁶ plays an important role in consumers' financial situation. There are various types of non-mortgage retail lending: payment plan, where goods or services are paid for over a long or short period, unsecured loan (loans without collateral) and revolving loans⁷, where the consumer is given a credit facility, for example one that is linked to a credit card or an overdraft, that can be used for purchases. Non-mortgage retail lending

⁶ Mortgages are used to finance house purchases. Leases for consumers can be described as a form of rental agreement. The remaining types of lending can be summarised under the term consumption loans.

⁷ A revolving loan is a credit facility a borrower can use, for example when making purchases using a credit card, an overdraft or hire-purchase online and in physical shops.

may involve greater risks than mortgages for many consumers, despite mortgages involving larger amounts.

FI has surveyed new non-mortgage retail lending over the past two years.⁸ These reports indicate that the rate of growth in non-mortgage retail lending has been high for a long time. The annual growth rate was 8.3 per cent at the end of 2019.⁹ This growth in non-mortgage retail lending is due to some extent to there having been an economic boom in Sweden. It has also become more common for retailers to offer consumers the opportunity to “buy now and pay later”. Sometimes, this type of offer can involve relatively small sums of money. It is common for e-commerce companies to highlight the potential to purchase on credit at the point payment is made.¹⁰ In addition, it is often the case that a consumer who has chosen to be invoiced for the purchase is offered other credit solutions when the invoice arrives. Some retailers have contracts that involve them being paid by the credit provider when their customers finance their purchases with a loan. This can incentivise retailers to get the consumer to choose a payment plan or other credit solutions.

Payment reminders and debt collection demands are common indications that a consumer is having difficulty with repayments. FI’s reports on non-mortgage retail lending show that the number of payment reminders differs markedly between different types of loan and different credit providers. In 2018, around 17 per cent of borrowers with an unsecured loan from a consumer credit institution¹¹ received at least one payment reminder during the first five months of the loan.¹² In addition, the consumption loan report for 2019 states that nearly 15 per cent of all non-mortgage retail lending resulted in a

8 Swedish Consumption Loans 2019, 13 June 2019, ref. 19-10094 and Swedish Consumption Loans 2018, 14 June 2018, ref. 18-11091.

9 Financial Market Statistics December 2019, Statistics Sweden.

10 The Government has submitted Govt Bill 2019/20:79, *Presentation av betalningssätt vid marknadsföring av betaltjänster online* [Presentation of payment methods when marketing payment services online], which contains a proposed amendment to the Payment Services Act (2010:751) to the effect that when a consumer is buying goods or services online and is able to choose a method of payment that does not involve credit being issued, this option shall be shown first. In addition, under this proposal, a method of payment that involves credit being issued may not be preselected if there are other methods of payment. The Government’s justification for this proposal is that failing to introduce such a requirement carries a risk that the credit is not the result of an active choice on the part of the consumer and, in some cases, the marketing can be so obtrusive that it may lead to consumers being attracted to taking out ill-considered loans in order to finance purchases of goods or services despite not being in the financial position to do so (p. 10).

11 Firms with authorisation in accordance with the Certain Consumer Credit-related Operations Act (2014:275).

12 The corresponding proportion was 2 per cent for the group of banks that in the report is called “niche banks” and 1 per cent for major banks. According to the definition in the consumption loan report, a major bank generally has a more comprehensive range of products than other credit providers and offers both secured and unsecured loans. A “niche bank” often specialises in one or a few areas, e.g. non-mortgage retail lending.

debt collection demand from the credit provider.¹³ Debt collection demands are more common for loans that have been issued by consumer credit institutions and sales financing companies than those issued by other types of firm.¹⁴

FI believes it is problematic when a large proportion of a credit provider's customers are receiving payment reminders only a short time after having taken out the loan. It is unlikely that this is only due to the individual consumer forgetting to pay. There is therefore reason to investigate whether there are shortcomings in the firms' creditworthiness assessments (see below on investigations that FI is planning to conduct in 2020).

When a consumer is not able to cope with their commitments, they can contact the credit provider to arrange a settlement, for example on altering the repayment rate. Correspondingly, the consumer may also arrange a settlement with the debt collection company if the debt has been transferred from the credit provider to the debt collection company. If it is not possible to arrange a settlement of this type and the consumer does not pay, the consumer may receive an injunction to pay. This means that the debt has been submitted to the Swedish Enforcement Authority for collection. When a consumer is subject to an application for an injunction to pay and still does not pay, they are in debt to the Enforcement Authority. This shows that the consumer has a repayment problem, while an injunction to pay is an indication that this may be the case.

According to the Enforcement Authority's statistics concerning injunctions to pay, the number of people with injunctions to pay remained unchanged between 2016 and 2017 but increased between 2017 and 2018. The half-yearly statistics suggest that the number has gone down marginally in 2019. In 2018, approximately 55,000 young people aged 18–25 are subject to injunctions to pay. Since 2017, the number of individuals who are in debt to the Enforcement Authority has decreased by five per cent, while the average debt has increased. There were also a larger number who for the first time went into debt with the Enforcement Authority in 2018 than in 2017. All in all, about the same number of consumers show signs of new repayment problems over the period 2017–2019. However, it is worth noting that lending has also increased, which may explain the increase in recent

13 These loans also account for 15 per cent of the total volume of new lending in the survey. It should be taken into account here that some credit providers sell the loans before they have had a chance to reach the debt collection stage and there may be an even larger proportion of consumers who have not been able to cope with their commitments.

14 18 per cent of sales financing companies' loans have resulted in the borrower receiving a debt collection demand. The corresponding proportion is 13 per cent for consumer credit institutions, just over 1 per cent for "niche banks" and a few tenths of one per cent for object financing companies and major banks. According to the definition in the Consumption loan report, an object financing company issues loans secured against collateral other than a home. Refer to footnote 12 for the report's definitions of "niche banks" and major banks.

years in the number of injunctions to pay and why the average debt with the Enforcement Authority has increased. It is also important in the context to point out that it is not just loans that result in injunctions to pay and debts with the Enforcement Authority, but also, for example, unpaid taxes and debts with telephone operators.

Even though there are various underlying factors that have an impact on the number of injunctions to pay and a larger number of people are going into debt with the Enforcement Authority for the first time, FI is of the opinion that there are risks associated with the high levels of household debt and non-mortgage retail lending.¹⁵ This growth in lending for consumption may result in more people having repayment problems in the future, especially in an economic downturn. It is problematic if a large number of consumers are unable to repay their debts. In the worst case, they can end up in a negative debt spiral and are often exposed to other challenges. For example, it results in young people with debt problems early in life finding it difficult to rent or buy a home.

The creditworthiness assessment is key to preventing repayment problems.

In light of the trend described in which groups of consumers have difficulty repaying their debts, there may be reason to investigate whether there are some credit providers who are not conducting adequate creditworthiness assessments. Consequently, FI will be prioritising this issue as part of its supervision in 2020.

Under the Consumer Credit Act¹⁶, a credit provider may only grant a loan to a consumer if it makes the assessment that they are able to meet their commitments under the credit agreement.¹⁷ The creditworthiness assessment has to be conducted on the basis of information about the consumer's financial circumstances that is sufficient in order to assess the consumer's repayment capacity with a high degree of certainty.¹⁸ It is FI's opinion that the credit provider's duty of care includes preventing the consumer from ending up in a situation where they are unable to cope financially. The fact that a credit provider has low credit losses is not sufficient evidence on which to conclude that the firm's creditworthiness assessment procedures are living up to the regulatory requirements.

¹⁵ Swedish Consumption Loans 2019, 13 June 2019, p. 5. See also p. 30.

¹⁶ Consumer Credit Act (2010:1846).

¹⁷ Section 12 of the Consumer Credit Act

¹⁸ Govt Bill 2009/10:242, Ny konsumentkreditlag [new consumer credit act], p. 100.

FI has noted in its supervision of non-mortgage retail lending that credit providers are conducting creditworthiness assessments in various ways and that they differ in terms of both format and scope. A thorough creditworthiness assessment reduces the risk of repayment problems. This underlines the importance of credit providers having procedures and models for credit assessment that are based on relevant and up-to-date information about the consumer's financial situation. Some firms endeavour to use processes that are automated as much as possible. FI concludes that a credit provider must take into account the requirement that sufficient information forms the basis of the creditworthiness assessment in these cases as well.

The creditworthiness assessment always has to be based on the individual consumer's financial circumstances. The size of the credit, its characteristics and the situation in which the credit is being offered are factors that may then be of significance to what information the credit provider collects in order to ensure that that consumer has the ability to repay. The credit provider is responsible for adapting the creditworthiness assessment to the circumstances when the credit is provided. The size of the loan is thus simply one of many factors that are included in the creditworthiness assessment. It is FI's view that even small loans require a relatively extensive creditworthiness assessment. This is especially pertinent since there is an evident risk that a consumer who already has a high level of debt will apply for an additional loan, sometimes under stressed conditions, despite having a low repayment capacity.

It is important that the creditworthiness assessment be based on current information about the consumer. If not, there is a risk that the credit provider will provide credit to a consumer who does not have the financial circumstances to cope with their commitments. The tax return data that form the basis of the credit reference firms' income data can be over a year old. Consequently, FI will be focusing its supervision on whether the creditworthiness assessment is conducted using information that is relevant to assessing the consumer's financial situation.

In those cases where standardised amounts are used to estimate the consumer's expenses, it appears that credit providers are basing these on cost calculations produced by government agencies for purposes other than calculating repayment capacity in a credit assessment. Consequently, they do not cover the most important expenses.¹⁹ In

¹⁹ For example, each year the Swedish Consumer Agency calculates the cost of a reasonable level of consumption for some of the most common areas of household expenses. This data is produced, among other things, because the agency has to provide supporting evidence for the Government's decision on the national norm for maintenance support and for assisting municipalities' budgetary and debt advice. One expense that is not included in these cost calculations is housing costs. There are also no calculations performed for the costs of dental

which case, it is important that credit providers conduct a creditworthiness assessment that takes into account the fact that the consumer also has to cope with other subsistence costs.

An important element of the creditworthiness assessment is taking into account the consumer's existing debt. FI concludes that credit providers who use data from credit reference firms risk not gaining a comprehensive view of the consumer's total debt burden. In some cases, there are no data about the consumer's previous loans. In other cases, there are only data about loans and inquiries with the credit providers that are customers of the credit reference firm in question. FI therefore sees the need for the Government to set up an inquiry to look at amending the legislation so that credit providers are able to obtain a complete picture of the consumer's existing loans through an external source. Further information can be found under *Requirements for a comprehensive overview of the consumer's total debt*. As part of its supervision, FI will be focusing on, among other things, how credit providers, in the absence of a complete picture of the consumer's debt through an external source, are checking what debts the consumer has.

Priorities for FI's supervision

In 2020 FI will be conducting a wider investigation of smaller banks and credit market companies that provide unsecured loans. The aim is to investigate how these firms are conducting creditworthiness assessments and whether they are otherwise adhering to generally accepted lending practices.

FI will also conduct a survey on non-mortgage retail lending in 2020. The fact that there are surveys from 2018 and 2019 allows FI to make comparisons with these years. As was the case previously, FI will publishing the results in a report. The survey encompasses 37 firms and consists of information about borrowers, credit providers and loans.

FI continues to monitor developments in the Swedish mortgage market through the annual mortgage survey. The survey focuses on lending and creditworthiness assessment in conjunction with the issuance of mortgages. The mortgage survey is included in FI's analyses of developments in the mortgage market from a macroeconomic perspective. It is also an important aspect of FI's firm-specific supervision for the purpose of, among other things, checking credit providers' compliance with the consumer protection rules.

care and healthcare, transport, childcare, home-help services, holidays, hotel/café/restaurant visits, education, presents etc. See Report 2018:5, The Swedish Consumer Agency's methods for calculating reference values.

In 2020, FI will be charting trends pertaining to existing borrowers' mortgages and non-mortgage retail lending. For the work with consumer protection, this provides an opportunity to study the accumulation of debt. In addition, FI's efforts to analyse the relationship between, on the one hand, age, income and debt and on the other, financial assets.²⁰ This analysis will lead to information being generated about consumers' loans, assets and net wealth. The size of loans in relation to liquid assets is strongly linked to the ability to deal with worsened financial circumstances.

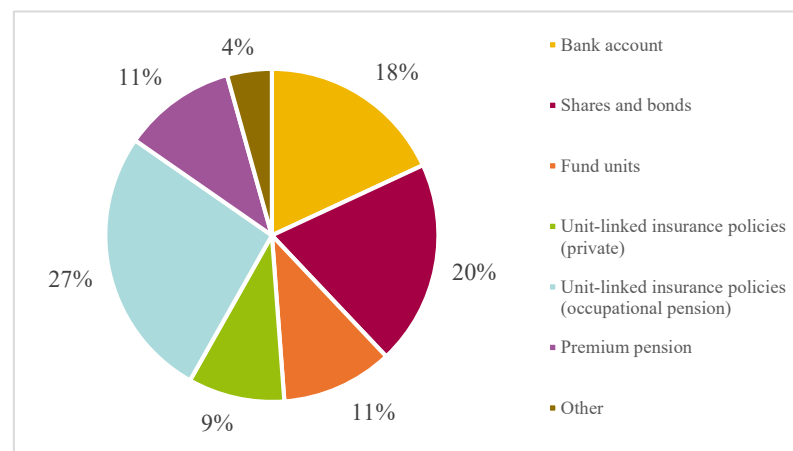
FI has initiated a closer dialogue with the Swedish Enforcement Authority, the Swedish Data Protection Authority and the Swedish Consumer Agency for the purpose of conducting more in-depth analyses of the effects of increased lending, the significance of how creditworthiness assessments are designed and factors that are decisive to whether consumers have problems with repayments.

MISSELLING

Large range of products and informational disadvantage

Swedish households save in many different ways. Saving can be done in bank accounts, through investments in shares and funds or in various types of insurance policy. It is more common in Sweden than in many other countries to save in funds. Consumers invest their savings in funds both directly and indirectly through unit-linked insurance policies. See Graph 1 for a complete breakdown.

Graph 1.
Households' financial assets
Per cent



Source: Statistics Sweden.

²⁰ FI is conducting the analysis together with researchers from Stockholm University.

Almost one third of households' financial assets consist of savings in insurance policies that are either private (primarily endowment policies) or linked to employment (occupational pension). Saving in insurance policies takes place either through traditional insurance products, where the insurance firm determines how the money will be invested and offers a guarantee, or in unit-linked and deposit insurance policies, where the insured person chooses themselves how the money is invested. Around one quarter of Swedish net asset value is invested in unit-linked policies.

There is a wide range of investment options with more or less complex products where the outcome of the investment is, in some cases, only apparent far in the future. In a world in which an ever increasing quantity of information and marketing has moved to digital channels, the consumer is also encountering a tide of offers on websites and in social media. These come from a large number of different firms from both Sweden and abroad. When interest rates are low, offers with a high rate of return can be attractive to a consumer. However, these are associated with high risk.

The investment options that are popular among advisers varies over time. Structured products have long attracted consumers with the expectation of a high rate of return. FI, which has previously drawn attention to the fact that this product category is associated with major risks and problems²¹, now notes a trend in which corporate bonds are also being distributed in higher volumes. In many cases, consumers are being attracted with a high rate of interest on these bonds, which are often associated with a high level of risk. Experience from FI's past supervision has shown that it is not uncommonly the potential for advisers to obtain a large amount of remuneration that guides which investment options are offered rather than an actual need among consumers.

It can be difficult for consumers to choose a form of savings and understand which market participants they can trust. Unavoidably, consumers are at an informational disadvantage to the firms offering financial products and services. For many reasons, it is also difficult for consumers to make well-founded choices for their long-term savings. Assessing what return the savings may be expected to provide, what the total costs will be over time and how great the risk is that the result will be something other than what is expected requires a lot of knowledge and interest. Added to this is the fact that many people lack the basic knowledge required to understand financial information (see the fact box Low level of knowledge and interest in financial services among consumers).

²¹ See, for example FI's report: A necessary step for a better savings market, 2016, FI Ref. 16-1639.

In light of this, a great deal of trust is placed on the firms that produce, distribute (the firm itself, tied agents²² or an intermediary) and offer advice concerning financial services to make the consumer's needs and circumstances their first priority. Many consumers would benefit from getting help to evaluate the many options that are available on the market and are also in need of responsible advice.

Several new provisions entered into force in 2018 that strengthen consumer protection in respect of advisory services and other aspects of the distribution of financial products.²³ Corresponding changes that apply to some pension insurance policies took place in 2019.²⁴ These rules relate to matters including product governance, conflicts of interest linked to remuneration to third-parties and to employees, and the requirement for suitability assessment.

Product governance rules

Firms have a major responsibility when they are developing new products or making substantial changes to existing products. They must have a process for the approval of each product before it may be marketed and distributed to customers. The implications of the rules on product governance include that firms have to identify in advance a target group for the products they intend to sell. Based on the target groups, the firm has to assess what risks there are and choose an appropriate distribution channel so that distribution leads to the right product reaching customers in the right target group. For example, a complicated high-risk product that is not intended for distribution to the majority of customers should, as a rule, never be sold outside of the specific target group, either by the firm that has produced it or by the firm that is distributing it.

The product governance rules also means that firms which produce products have to regularly review how these are distributed. This review includes the firms having to assess whether the product is still compatible with the needs of the established target group and whether

22 A tied agent is a natural or legal person that, having registered with the Swedish Companies Registration Office, is permitted to market investments or ancillary services, receive or forward instructions or orders, invest financial instruments or provide investment advice on behalf of an investment firm.

23 Among other things, Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution is being implemented through the Insurance Distribution Act (2018:1219). Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MiFID II) is being implemented through the Securities Market Act (2007:528). In addition, there are provisions in Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (MiFIR).

24 Pension insurance policies that have a maturity or surrender value that is completely or partly directly or indirectly exposed to market volatility.

the distribution strategy that has been chosen is suitable. Accordingly, firms that produce products have a far-reaching responsibility, from the design of the product and choice of partners and distributors, to follow-up. Firms shall use follow-up to obtain information about whether the product is in any way not in the interests of the target market or whether any of the product's features is not compatible with the target market. Insurance distributors have to continually report back to the insurance firm about how distribution is going.

Inducements

In order for it to be permitted to accept commission and other inducements in conjunction with investment advice, it must be possible to demonstrate that the inducements are designed in order to improve the quality of the service and do not impair the firm's chances of acting in accordance with the interests of the consumer. Before the service is provided, the consumer must also be given information about the inducements and about their nature and size.²⁵ When distributing insurance-based investment products, there is instead a requirement that the inducements must not have any detrimental impact on the distribution or impair the firm's chances of acting in accordance with the best interests of the consumer. It is also not permitted to offer up-front commission, i.e. the commission may not pertain to a substantial extent to services that have not yet been provided and the size of the commission may not be based on premiums that have not yet been paid. The inducements may also not be of such a size that they are clearly disproportionate in relation to the services that are being provided. The consumer has to be given information about all costs that are associated with the distribution of the insurance-based investment product.

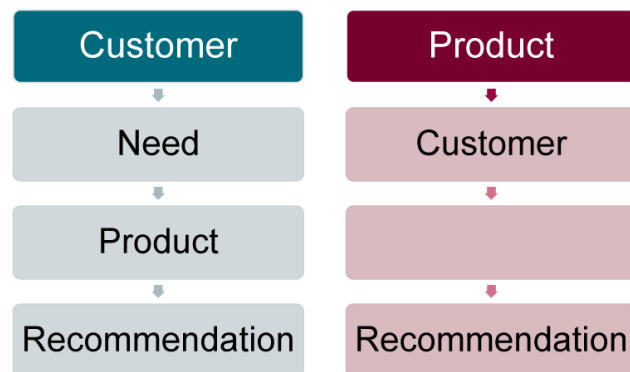
Suitability assessment

Advice is something that is especially common when consumers are investing in funds, shares, bonds and insurance policies. Advice to consumers about investments in financial instruments or life insurance-based savings is primarily provided by investment firms (and their tied agents) and banks, as well as insurance firms and insurance intermediaries.

A basic prerequisite in order for advice to fulfil its purpose is that it is based on the needs, objectives and circumstances of the individual consumer and is not influenced by other factors. An adviser must take

²⁵ In addition, if it is not possible to establish the amount, the securities institution has to provide information about the method used for calculating the amount. Where applicable, the securities institution also has to provide information about how the remuneration or benefit is transferred to the customer.

into account the fact that the consumer may have limited knowledge and insight when they are providing suggestions and explaining relationships. The purpose of the suitability assessment is for the adviser to obtain sufficient information about the consumer in order to provide advice that is based on the consumer's needs and that suits their investment horizon, attitude to risk, knowledge and experience.



If the business model is based on the consumer – as in the image on the left – and the consumer's needs, there are good chances that it will be possible to provide responsible advice that is appropriate for the consumer. This includes advising against investment if the advisor does not have any products to offer that are appropriate for the needs of the consumer. However, if the advice is based on the range of products – as in the image on the right – there is a risk that the adviser will make a recommendation that is not based on the needs of the consumer.

The advice must be based on a range of products that is adapted to the target group the adviser is focussing on. What remuneration the adviser or the insurance distributor receives when they sell various products must not influence which product is recommended to the consumer. It is essential that the business model is based on the consumer and their needs and that there are no other incentives to favour a certain product over another. It is only if the incentive structure is right that it will be possible for the firm and the adviser to provide responsible advice that is appropriate to the needs of the consumer.

Focus on the consumer

FI has long noted that insurance distributors and securities institutions have been distributing products that have given them large commissions. Sometimes, it is the product that has been the focus of the advisor's business rather than the customer's individual needs. This may involve products that have been relatively complex and the consumer has found difficult to evaluate. The provisions on product governance, inducements and suitability assessment are therefore central to providing consumers with a high level of protection. As part

of its supervision, FI has noted the situation in which advisers' product range also includes funds from their own group. In which case, the system of incentives must be such that the adviser does not recommend their own products if this is not in the interests of the consumer. The new and more advanced rules in this area are intended to have a more distinct effect on the levels of commission for advice. Firms that provide high levels of commission have a large burden of proof in terms of demonstrating that these are justified by the benefit to customers. FI has noted that the levels of commission for some products are still remarkably high. Responsible advice involves ensuring that the focus is on the consumer.

Another important question linked to advice is that the potential for consumers to move their pensions savings from one insurance firm to another has been expanded over the years. This results in greater freedom of choice for consumers to give up unfavourable insurance solutions. In view of how significant pensions often are later in life and the large sums that may be involved, it is important that consumers are able to make well-considered choices. There are insurance firms which state that a relatively large proportion of the consumers that have moved their pensions savings have been unaware of this and that, for many people, the idea of moving their pension savings has been brought up by a bank, financial adviser or other third party. FI emphasises the importance of the advice being based on what is best for the consumer before moving pension savings is proposed, for example in conjunction with advice about other financial services.

If a consumer who is considering investing in a fund is to make a well-founded decision, it is important that they be provided with information about the risks that may arise in that fund. For Swedish UCITS's investments to be permitted, they must pertain to instruments that are liquid. In spite of this, there may still be situations which result in the instruments' liquidity being affected. This makes the fund vulnerable in the event of large outflows, which may have an impact on the value of the fund and on remaining unit-holders. The fund manager is responsible for ensuring that their management takes liquidity risks into account. Liquidity risks also have to be described in the fund's key investor information document if a substantial portion of the investments pertain to financial instruments that by their nature are liquid but which may, in some cases, have a relatively low liquidity. If the key investor information document only provides a general view of liquidity risks, without a link to the specific fund, the consumer is not given the opportunity to make a well-founded decision.

Priorities for FI's supervision

As part of its supervision of the advice market, FI will be focusing on securities institutions' and insurance distributors' product governance,

on ensuring that these firms' advice is based on the needs and circumstances of the consumer and that these firms are complying with the rules on remuneration to third parties.

Because insurance firms are now also covered by the insurance distribution rules, FI will be surveying their processes for product approval, including how target groups are identified. This survey will also cover insurance firms' advice and remuneration systems. This will be followed by investigations of individual insurance firms.

FI is also monitoring the transfer of policies in the insurance market and which different distribution channels are being chosen by insurance firms.

In addition, FI will be focussing on fund management companies' handling of liquidity risks in funds. For example, FI will be participating in a joint supervisory activity that is being conducted together with other European supervisory authorities.

DIGITALISATION – SOME CONSUMERS ARE BEING LEFT BEHIND

The financial sector is digitalising rapidly. New services are being developed and consumers are being given more opportunities to manage their banking and insurance affairs at any time and from anywhere. The new possibilities are positive in many ways. There is, however, a problem in that the change has taken place rapidly and in a radical way for the whole of society. Not all consumers can – or want – to use the new services and, at the same time, it is also becoming harder – and in some cases more expensive – to use traditional solutions. The number of people who do not use the internet on a daily basis is just over one million. Around one in ten do not use internet banking and just under two in ten do not use BankID. The oldest people feel least involved in the digital society.²⁶ For older people and others who have difficulty using digital solutions, it is not just practical difficulties that arise when there are no other options, there is also an increased risk that they do something wrong or fall victim to fraud when they have to use technology that they are not fully in command of.

Many financial services are important in order to enable consumers to function in society. That is why FI believes firms have a responsibility in the ongoing transition to think about the circumstances of all groups of customers. This can involve retaining services in their range in spite of these being used to increasingly limited extent. Or, as some firms are already doing, getting involved locally with education, support and assistance for various groups of consumers. It also involves ensuring that the digital services have a high level of security in order to minimise the risk of consumers falling victim to fraud. In a report, the Swedish Post and Telecom

²⁶ The Swedish Internet Foundation's report *Svenskarna och Internet 2019* [Swedes and the Internet 2019].

Authority writes that accessibility tests of websites with basic information about digital functions and services show that many banks have made progress in recent years. In spite of this, the conclusion is that the majority of banks still need to do more in order to increase the accessibility of the websites that were studied.²⁷

FI is of the opinion that the trade associations should increasingly become involved in preventing customer groups being left behind by ongoing developments.

INSURANCE FIRMS' CLAIMS HANDLING

In 2020, FI will be investigating home insurance claims handling in more detail. The reason for this is that home insurance is a very common insurance product and this is an issue that affects a large number of consumers. When handling a claim, the insurance firm makes a decision as to whether an incident that has been reported is covered by the policy and, if so, what amount will be provided or what action will be taken. To protect consumers, it is important that home insurance claims handling functions in an effective and consistent manner on the day the consumer suffers damage and has to make use of their insurance policy.

Close to 97 per cent of consumers had a home insurance policy in 2017. It was equally common for men and women to have a home insurance policy, while the proportion was lower among people born abroad, at just over 89 per cent (see Graph 2).²⁸ Home insurance encompasses a large number of elements that together constitute basic protection for the consumer. Home insurance includes property cover, which provides compensation for loss of movable property in the event of theft or fire, travel insurance that provides compensation in the event of, for example, medical care in conjunction with foreign travel, liability insurance if the consumer is obliged to pay damages, legal expenses cover that provides compensation for the cost of legal representation should the consumer become involved in a legal dispute, and assault cover that can provide compensation in the event of an assault.

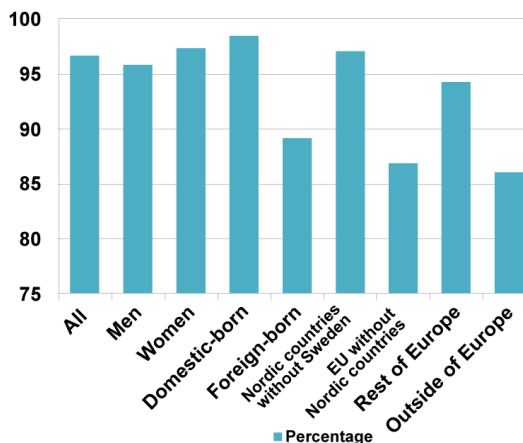
²⁷ Kartläggning av information om betaltjänster som underlättar digital inkludering [Survey of information about payment services that facilitate digital inclusion], Swedish Post and Telecom Authority, PTS-ER-2019:25, 18 December 2019.

²⁸ This data is based on a survey of living conditions for various groups of the Swedish population aged 16 and over conducted by Statistics Sweden in 2017. Because it involves a sample survey based on a nationwide random probability sample, it has a certain calculable uncertainty.

Graph 2

Estimated proportion of people with home insurance, 2017

Per cent



Source: Statistics Sweden 2017

Note People aged 16 and over

In 2018, the Swedish Consumers Insurance Bureau²⁹ received 10,700 cases, just over half of which, 54 per cent, were various types of complaint.³⁰ Of these complaints, 31 per cent could be attributed to insurance policies that relate to housing. In relation to the number of insurance policies sold, the number of complaints is not notably high.

There can be many reasons to complain; the firm and the consumer have a difference of opinion on how the damage is to be assessed or how the terms are to be interpreted. It may also relate to the consumer having had the wrong expectations of what the insurance policy covered, which may sometimes be due to deficient information or the consumer not having read the information that was provided. Notable among the complaints received by FI and the Swedish Consumers Insurance Bureau are difficulties relating to proof in respect of insurance claims. For example, it can be difficult to get an accurate value for lost property. Complaints can also concern unexpectedly high deductions for age or compensation being denied completely. It is also the case that insurance companies do not provide justification for their decisions. Some consumers also feel that they do not understand the decisions when their claims are rejected or the compensation is reduced.

FI's supervision includes ensuring that insurance firms' claims handling adheres to "good insurance standards". However, FI does not pursue cases on behalf of individual consumers. The legislative history of the Insurance Business Act states that good insurance

²⁹ The Swedish Consumers Insurance Bureau is a foundation that provides consumers with independent advice in matters pertaining to insurance. It is owned by FI, the Swedish Consumer Agency and the industry.

³⁰ The Swedish Consumers Insurance Bureau's annual report for 2018.

standards exist to protect policyholders, insured persons and other beneficiaries that are covered by insurance policies. More specifically, it states that firms must have internal processes and procedures for ensuring that injured parties are treated correctly.

Furthermore, according to the legislative history, good insurance standards are to be seen as a general code of practice for insurance firms. The meaning of the term good insurance standards shall primarily be complemented by FI's supervisory practices. Practices in the industry can also provide some guidance on how the term is to be applied.

FI has the potential to issue regulations and general guidelines concerning good insurance standards. However, this has not yet been deemed necessary. For personal injury claims handling, FI has been able to conclude³¹ that action taken by the industry has fulfilled its purpose and has largely functioned well (further information on p. 33). The fact that the guidance from Insurance Sweden is being adhered to not just by its member firms, but also by firms and branches that are not members shows that they are having an impact.

FI presumes that the industry will also continue working to improve and develop its practices in areas other than personal injuries, for example home insurance. It is important that the industry continually reviews industry-wide recommendations and ensures that self-regulation in this area leads to consumers receiving the right compensation at the right time.

UNDER- AND OVERINSURED CONSUMERS

It is difficult to determine how common it is for consumers to be over- or underinsured, i.e. they have purchased insurance policies that cover features they do not need or have more than one policy that covers the same features without entitling them to double compensation, or they should have insurance but do not.

A certain degree of overinsurance may be presumed to exist in cases where consumers buy insurance for products that are already fully covered by their home insurance. FI would like to point out the insurance firms' and distributors' responsibility under the product governance rules (see above under *Misselling*) to offer products that are appropriate for them. Insurance covering specific products must not be offered to a consumer if it may be understood that they do not need it.

As stated, home insurance provides broad coverage. There are groups that do not have home insurance. The cover provided by home insurance stretches further than

³¹ *Skadereglering vid personskada* [Personal Injury Claims Handling], 15 December 2017, Ref. 17-540, and Personal Injury Claims Handling – A Follow-Up Review, 11 April 2018, Ref. 18-8288.

simply providing compensation if property is lost. Consequently, FI's work on financial literacy includes providing information to various groups about the importance of having home insurance, including in the teaching materials for Swedish for immigrants (SFI). See also pp. 7 and 36.

Priorities for FI's supervision

In 2020, FI will be investigating the claims handling process of a number of insurance firms and whether they can be deemed to have internal processes and procedures for ensuring that consumers are being treated correctly in accordance with good insurance standards. The investigations may indicate that further measures, for example more detailed guidance, is necessary in order to clarify what good insurance standards entails in terms of claims handling.

In 2020, FI will also be developing the materials concerning insurance that are used in Swedish for immigrants (SFI) and developing FI's educational project for senior citizens. The materials and the education courses are contributing to improving knowledge of insurance and the aim is to reduce the risk of underinsurance. See also pp. 7 and 36.

Experiences from supervision and action taken that focuses on consumer protection

FI conducts supervision in various ways. One is ongoing supervision. Another is surveys and investigations, both of individual firms and on a more market-wide level. In addition, continual dialogue takes place with firms that are subject to supervision. This section contains an account of a selection of the supervision activities and supervisory measures with a focus on consumer protection that FI conducted in 2019.

INSURANCE INTERMEDIARIES' AND INVESTMENT FIRMS' ADVICE

Advice to consumers concerning investments in financial instruments or insurance-based investment products is provided by, among others, investment firms (and their tied agents), banks and insurance firms and insurance intermediaries. In 2019, FI has reviewed how investment firms and insurance intermediaries have implemented the new regulatory requirements. These reviews of the implementation of the regulations will continue in 2020. Further information can be found see above under *Misselling*.

SURVEY OF INSURANCE INTERMEDIARIES' REMUNERATION MODELS

In autumn 2019, FI conducted a survey of around 200 insurance intermediaries, the majority of which had only a small number of employees. This survey was a follow-up to a survey conducted in 2018. The aims included conducting an inventory of insurance intermediaries' revenues in the Swedish market and finding out what proportion of insurance intermediary companies are offering variable remuneration to their employees.

FI asked questions about the insurance intermediaries' remuneration models and about which types of product generated the highest remuneration as a proportion of the amount invested in the first six months of 2019. The survey showed that the bulk of the insurance intermediaries' remuneration is made up of commission. Compared with the survey from the previous year, however, it was possible to note an increase in fee-based advice, i.e. that the advice is being financed with a fee paid directly by the consumer rather than remuneration from the companies whose products are being recommended. An extremely small number of firms has only fee-based remuneration. The products were divided into three categories: funds, structured products and other products. The survey showed that the insurance intermediaries' average remuneration from the

companies was 0.40 per cent of the amount invested for funds, 3.36 per cent for structured products and 3.0 per cent for other products (e.g. shares or corporate bonds). The lowest remuneration for funds was 0.15 per cent and the highest was 2.0 per cent. The corresponding lowest and highest remunerations for structured products were 0.40 and 23.10 per cent, respectively. For other products these figures were 0.15 and 6.0 per cent, respectively.

FI ascertains that, on an overarching level, no major changes in terms of remuneration levels from the companies have taken place compared with the previous year. The highest remuneration levels noted for each product group have reduced somewhat but it is not possible to conclude that the new rules concerning commission and remuneration for employees has had any substantial impact. FI emphasised in the consumer protection report for 2019 that firms receiving a high remuneration have a major burden of proof in terms of demonstrating that this is justified by customer benefit. The remuneration levels for some products are still high.

SURVEY OF FEES IN SWEDISH FUNDS

FI has conducted a survey of all active Swedish UCITS and special funds (UCITS such as AIFs). This included charting all of the funds' fixed and performance-based fees and, where appropriate, benchmark indexes and active risk. The survey encompassed 776 funds, of which 573 are Swedish UCITS and 203 special funds (UCITS-like AIFs), from 81 fund management companies, including the state pension fund AP7.³² The results of the survey include that there are funds where the performance-based fee has no link to the fund's investment strategy and that there are funds that lack a benchmark index.

As of 1 January 2020, requirements were introduced to the effect that fund managers have to provide information about the degree of activity in their fund management.³³ The aim of the requirement is to improve investors' potential to assess whether the annual fee charged by fund managers for managing the fund is justified in relation to how actively the fund is managed. Fund managers have to provide information about how actively the fund is managed in relation to the fund's benchmark index. The survey in 2019 was the first step that makes it possible to measure any effects of the new rules. In 2020, FI will be following up the new statutory requirement to report how actively funds are being managed.

³² The survey pertained to funds as at the final business day of 2018.

³³ The requirement has been introduced through amendments to the National Pension Funds Act (2000:192), the Swedish UCITS Act (2004:46) and the Alternative Investment Fund Managers Act (2013:561).

CONSUMER INFORMATION: REVIEW OF THE PRIIPS REGULATION

The PRIIPS Regulation³⁴ means that a standardised key information document has to be produced for certain investment products and insurance policies so that the consumer is given a structured overview that includes fees, costs, level of risk and expected return.

A review of the PRIIPS Regulation began at the EU level in 2019. The amendments are expected to enter into force on 1 January 2022. The implications of this include that the key information document that is currently used for funds will be replaced by a new document similar to that used for other financial products. This will make it easier for consumers to compare different products. Aside from adapting the regulation to fund products, the purpose of the review is to improve the information about the expected return on the investment and about fees and costs.

FI has participated in the work on the PRIIPS review in order to ensure that the Swedish market and Swedish consumers are taken into consideration. The basic premises for FI have been for the amendments that will be proposed to contribute to ensuring that consumers gain a better understanding of the key information document and that the consumer thus finds it easier to compare different products. Changes must therefore be made thoughtfully, and a thorough analysis must be conducted, including consumer tests, so that the information for consumers is made clear and is not misleading.

In 2019, FI has followed up the survey conducted the previous year of how firms implemented PRIIPS by providing key information documents and how these documents were designed. The conclusions have been communicated in dialogue with firms and FI has specifically emphasised that it is important for the language in the key information document to be clear and easily accessible.

PRODUCT INTERVENTION

For a few years, it has been possible for the European Securities and Markets Authority (ESMA) and national authorities to intervene against products that constitute a serious problem for investor protection. This is known as product intervention.³⁵ ESMA has previously introduced a ban on marketing, distributing and selling

³⁴ Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs).

³⁵ This is by virtue of Article 42 in Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (MiFIR).

binary options and CFDs (contracts for difference) to retail customers. This concerns various types of derivatives. However, ESMA's latest decisions ceased to apply after 1 July 2019 and 31 July 2019, respectively. Consequently, FI has decided to issue regulations³⁶ concerning product intervention so that this protection for consumers continues to apply in the Swedish market. These rules entail that a firm may only market, distribute or sell binary options and CFDs to retail customers if the requirements in the regulations are met.³⁷

INVESTMENT FRAUD

The number of cases involving investment fraud has increased in 2019. Offers concerning small investments in CFDs linked to currencies and cryptocurrencies have predominated. Often, consumers have seen an advertisement in social media, entered their contact details and subsequently been called with offers to invest a small sum. There have then been further calls about additional investments, which have, in some cases, led to consumers ending up investing large sums. The people behind these fraudulent enterprises are often in other countries. FI has a warning list of companies that are operating in a market without having the requisite authorisation or without being registered with the supervisory authority in that country. In partnership with foreign authorities, FI issued warnings in 2019 about a large number of investment frauds.

SAFER PAYMENT SERVICES AND NEW PARTICIPANTS IN THE PAYMENT SERVICES MARKET

The second payment services directive (PSD 2)³⁸ was incorporated into Swedish law through amendments to the Payment Services Act³⁹ that entered into force on 1 May 2018. Market participants that provide payment initiation services and account information services – e.g. digital services that consumers can link to their existing accounts with different payment services providers in order to gain an overview of their total savings or initiate payments – must now have authorisation from FI and will be subject to FI's supervision. This provides consumers who use these financial services with stronger protection because it sets requirements for secure solutions and that firms have drawn up functional procedures and are governed in an

36 FFFS 2019:8, Regulations regarding product intervention with regard to binary options and FFFS 2019:7 Regulations regarding product intervention with regard to contracts for differences (CFDs). These regulations entered into force on 2 July and 1 August 2019, respectively.

37 The regulations apply to firms that provide investment services in accordance with the Securities Market Act (2007:528).

38 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC was published on 23 December 2015 and entered into force on 13 January 2018.

39 Payment Services Act (2010:751).

appropriate way. FI has granted authorisation to provide payment initiation services to 10 firms and authorisation to provide account information services to 20 firms.⁴⁰

Some consumer protection provisions in PSD 2 only entered into force on 14 September 2019 when the technical standards became applicable.⁴¹ The technical standards contain clarifications of the new requirement for strong customer authentication that are to apply when users of payment services log in to their payment accounts online, initiate an electronic payment transaction or undertake certain actions remotely⁴². The purpose of the new stricter requirements is to make payments more secure and reduce the risk of fraud. However it has become increasingly clear in 2019 that the payment services market in the EU is not fully prepared to comply with the new requirements. The European Banking Authority (EBA) has noted this problem and explained that, under certain circumstances, it is able to accept a temporary extension for firms to adapt to the requirement in respect of online card transactions.⁴³ All firms must be applying the new rules no later than 31 December 2020.

FI is of the opinion that it is unfortunate that implementation of the new provisions concerning strong customer authentication has been delayed. As a result, it will still be the case in 2020 that purchases on e-commerce websites are being made on the basis of payment card details without a requirement for any additional authentication of the consumer. However, it is important to note that the provisions of the Payment Services Act concerning liability for unauthorised transactions have already entered into force. If strong customer authentication is not used for e-commerce, the payment service provider is liable for the full amount of the unauthorised transactions, provided that the consumer has not contributed to these unauthorised transactions through fraudulent proceedings.⁴⁴

In order to follow up the implementation of the new regulations, FI has held and participated in a large number of dialogues over the past year with various representatives of the industry, in particular with reference to interfaces and strong customer authentication, and has

40 Some firms have been granted authorisation to provide both payment initiation services and account information services.

41 Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication.

42 Strong customer authentication means authentication based on two or more elements (something only the user knows (e.g. a code), something that only the user has (e.g. a payment instrument), or something inherent to the user (e.g. the user's fingerprint) that are independent of one another so that if someone breaches one of the elements, this does not compromise the reliability of the other elements.

43 See the EBA's two opinions EBA-Op-2019-06 and EBA-Op-2019-11.

44 Chapter 5a, Section 5 of the Payment Services Act.

also actively participated in the EBA's work on supervision, cooperation and consistent interpretation in the field of payment services.

RIGHT TO A PAYMENT ACCOUNT

Consumers resident in the EU have a right to open an account with basic functions in Sweden. This means that they have to be given access to payment services that facilitate everyday life, such as depositing and withdrawing funds, paying with a debit card and using direct debit. If a consumer is refused an account, the bank has to inform them of their opportunity to go to the Swedish National Board for Consumer Complaints in order to have their case considered. Over the past year, FI and the Swedish Consumers' Banking and Finance Bureau have noted an increase in the number of questions and complaints by consumers from other EU countries who say they have had difficulties opening accounts at Swedish banks.

FI has been tasked by the Government with reporting in 2020 on how credit institutions are applying the regulations relating to the right to open an account and charting how often consumers are refused an account and on what grounds this has taken place.

SURVEYS OF NON-MORTGAGE RETAIL LENDING AND MORTGAGES

High levels of debt may entail risks for both borrowers and credit providers, as well as to society as a whole.⁴⁵ That is why FI is monitoring developments in household borrowing.

In 2019, FI conducted a survey of Swedish non-mortgage retail lending (see above under *Unaffordable lending*). The majority of the loans are small and have a high effective interest rate. The survey also showed that it is the consumers with the highest incomes that are taking out the largest loans. Households with new loans are paying, on average, one quarter of their income after tax in interest and amortisation payments.⁴⁶ This indicates that many borrowers may need to reduce their consumption when interest rates increase.

In the survey, FI also asked whether credit providers have changed their business models as a result of the new provisions concerning high-cost loans that were introduced on 1 September 2018. Some of the market participants that have implemented changes stated that they have adapted their loans so that they are not covered by the definition of high-cost loans. Others stated that they had chosen to stop offering

⁴⁵ See also *Unaffordable lending*.

⁴⁶ The calculations in the survey of how large a proportion of income is being used for interest and amortisation payments take into account both the borrowers' new loans and their existing loans.

certain loans as these were no longer regarded as profitable. The legislation has thus entailed changes in the market for high-cost loans.

FI also published the report *The Swedish Mortgage Market*.⁴⁷ This showed, among other things, that new mortgagors' average loan-to-income ratios were suppressed in 2018 and also that the proportion of new borrowers with a high loan-to-income ratio decreased. New mortgagors who were subject to the stricter amortisation requirement borrowed less and purchased less expensive homes than what they would have done without the requirement.⁴⁸ However, the average loan-to-value ratio of their homes increased in 2018, after having been falling for several years. In general, households with new mortgages are able to cope with the payments on their mortgages by a good margin. The consumer protection report for 2019 provided more detail about the conclusions from this report.

YOUNG PEOPLE IN THE HOUSING MARKET

FI has analysed young adults' status in the housing market.⁴⁹ Buying a home is often the largest investment a household makes. The majority of people who buy homes need to borrow in order to finance parts of the purchase. This is especially true for young adults, who borrow a large proportion of the purchase price. Large loans in conjunction with buying a home are associated with risks. They can make the household vulnerable to loss of income or rising interest rates. Large loans also make households more sensitive to falling house prices.

Banks' creditworthiness assessments have to ensure that households are not taking out loans that are too large given their financial circumstances. To obtain a loan, the household's income must be sufficient to cover their living expenses, amortisation payments and interest charges with an appreciably higher – stressed⁵⁰ – interest rate than the current mortgage rate.

FI has compared the circumstances of young adults in 2012 with those in 2018. Higher house prices in 2018 mean that the loan needs to be larger and the income required in order to borrow for a certain home has increased. In spite of this, young adults account for a larger proportion of all loan-financed house purchases in 2018 than in 2012, close to 30 instead of just over 15 per cent. Over this period, young adults have also, to a greater extent than other groups, been taking out loans that are large in relation to their income.

The higher house prices in recent years and the two amortisation requirements have had an impact on the potential to buy a certain home. Nevertheless, 85 per

⁴⁷ *The Swedish Mortgage Market* (2019), Ref. 19-3472.

⁴⁸ See Andersson and Aranki (2019), "Fewer vulnerable households after stricter amortisation requirement", FI Analysis No. 17, Finansinspektionen.

⁴⁹ See Olsén Ingefärdt and Thell (2019), "Young adults and the housing market", FI Analysis No. 19, Finansinspektionen.

⁵⁰ Stressed interest rate means that the credit provider calculates whether the consumer would also cope with repaying the loan when interest rates are increased.

cent of the purchases made by young people in 2012 could have been financed by similar households in 2018. This means that some could not have financed an equivalent home. The main reason for this is rising house prices.

SURVEY OF SMALLER MORTGAGE PROVIDERS

A natural part of FI's risk-based supervision of the mortgage market is conducting ongoing reviews of the largest mortgage providers. At the same time, a change is taking place in the market, with new business models and new participants entering the market. There are smaller mortgage providers that are gradually attempting to take market share or are targeting specific customer segments. In recent years, the traditional bank-based financing model for mortgages in Sweden has been complemented by new models in which mortgages are transferred to firms outside of the banking sector.

In 2019, FI conducted a survey of mortgages issued by smaller mortgage providers. This survey included both banks and mortgage institutions.

The survey showed that the smaller providers are conducting credit assessments in a similar way to the larger mortgage providers. However, many of the smaller providers have somewhat more niche business models and are targeting specific customer segments such as borrowers with lower loan-to-value ratios. Borrowers who took out new loans from the smaller providers had, on average, lower loan-to-value ratios than those who borrowed from the larger providers. These borrowers also took out mortgages that were smaller on average and also had a lower average total debt than those with mortgages from the larger providers.

INSURANCE IN A NEW ERA: AI AND BIG DATA

As a result of digitalisation, many opportunities are opening up for insurance firms to create new services that are adapted to each individual consumer. Using artificial intelligence (AI) it is possible for insurance firms to efficiently analyse large quantities of data (Big Data) in order to find representative models that describe reality, for example consumer groups' profiles, habits and preferences. At the same time, collection of a large amount of data carries increased risks. Information about consumers may be used for purposes that are a threat to consumer protection (such as discrimination based on criteria that are ethically doubtful or improper pricing, for example based on a prospective customer's willingness to pay). For the insurance firm, data collection from several sources often results in additional vulnerability for cyber intrusion.

In 2019, FI continued its domestic and international efforts to monitor developments and guide insurance firms. Within the scope of

seminars, it has been possible to hold discussions between FI, academia, industry representatives and programmers. Among other things, work is taking place at the EU level on guidelines in respect of the supervision of machine learning and AI. This has brought to the fore issues such as consumers' privacy in conjunction with the collection of data concerning their behaviour and consumption patterns. This work will continue in 2020, with a specific focus on matters including machine learning.

PRIORITY RIGHTS REGISTER

Each individual insurance firm has to maintain a register of priority rights and assets covering technical provisions. If an insurance firm becomes insolvent, this register is the ultimate protection for the policyholders and their claims against the insurance company. Because there is no guarantee system equivalent to the deposit insurance scheme that applies to deposits in banks, it is important that insurance firms manage this register correctly and that it is kept up to date.

In 2019, FI published a report concerning insurance undertakings' handling of the register that was based on the results of a survey to which 40 firms responded.⁵¹ FI was able to establish that firms generally have satisfactory control of their handling of the register. In the report, FI pointed to two areas where improvements can be made in order to further enhance consumer protection. Firms should establish both a margin for how much the value of the assets have to exceed their technical provisions and guidelines for when they have to begin more frequent monitoring of the register.

PERSONAL INJURY CLAIMS HANDLING

In December 2017, FI reported on a government commission to survey and analyse personal injury claims handling.⁵² This report was followed by a new government commission in the field of personal injury claims handling that was reported on in 2019 in the report *Personal Injury Claims Handling – A Follow-Up Review*⁵³. In this report, FI established that the firms questioned had taken action to a varying extent, in particular when it came to IT systems, customer communication and quality assurance. According to the undertakings, both technological development and simplified handling techniques such as direct or accelerated claims handling, have made it possible to release staff to carry out other tasks in the claims handling process. Almost all undertakings responded that they are in the process of

51 *Försäkringsföretagens hantering av förmånsrätts- och skuldtäckningsregister* [Insurance firms' handling of registers of priority rights and assets covering technical provisions], 9 April 2019, Ref. 18-21335.

52 *Skadereglering vid personskada* [Personal Injury Claims Handling], 15 December 2017, Ref. 17-540.

53 *Skadereglering vid personskada – en uppföljning* [Personal Injury Claims Handling – A Follow-Up Review], 11 April 2019, Ref. 18-8288.

improving their communication with injured parties, both in terms of guidance when an injury is reported and in written communication. FI made it clear in this report that it is vital that firms modernise their IT systems. It is positive that the insurance industry has begun to act. FI continues to monitor developments and is adapting its supervision to what is happening in the industry.

NEW OCCUPATIONAL PENSIONS REGULATIONS

The EU adopted a new directive on institutions for occupational retirement provision in 2019.⁵⁴ This directive leaves plenty of scope for member states to adapt the rules to their domestic occupational pensions market and introduce more comprehensive rules. A new act concerning occupational pension firms that implements the directive was adopted by the Riksdag in 2019. FI has produced a comprehensive regulatory proposal that was referred for consultation over the summer and was adopted at the end of 2019. The regulations entered into force on 1 January 2020.⁵⁵

The aim of the new act is to largely harmonise the rules for occupational pension firms with those that apply to insurance firms.⁵⁶ The basic premise is for occupational pension operations to be covered by similar rules, regardless of whether it is being conducted by a firm that chooses to apply the insurance business rules or a firm that is reconstructed as an occupational pension firm. Due to the acknowledgement from the Riksdag in conjunction with the adoption of the new act, the Government has to come back with amendments to the regulations on some points.

The regulatory framework has meant that a number of questions of significance to consumers in the occupational pension market have come into focus. One key question is what capital requirement shall apply to occupational pension firms. A high capital requirement means that the firm is able to take on less risk and is thus not expected to obtain as large returns, which may entail lower pensions. At the same time, a capital requirement that is too low risks leading to the firm being unable to meet its commitments if it were to suffer from financial problems.

Another question that is pertinent is the information that has to be provided to insured persons. The rules stipulate that affected consumers must be regularly provided with something called a pension statement, both while saving and while the pension is being paid out, which largely corresponds to the annual statement or benefit

54 Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision.

55 FFFS 2019:21 *Finansinspektionens föreskrifter och allmänna råd om tjänstepensionsföretag* [Finansinspektionen's regulations and general guidelines on institutions for occupational retirement provision].

56 The Solvency II regulations and the Insurance Business Act - REF

statement that already exists in the Swedish market. One new requirement is that occupational pension firms have to provide information concerning the forecast for the future pension in the pension statement. Firms can comply with this requirement by referring to the service minPension.se, where consumers can get a combined forecast of not just their occupational pensions from various firms, but also the national retirement pension and any private pension savings. Unlike the information regulations firms were previously covered by, the new regulations do not involve any right for employees' and employers' organisations to determine themselves the content of the information for occupational pension insurance included in collective agreements.⁵⁷ However, scope has been left in order to allow the "selection centres" (*valcentral*, where the employee chooses between a number of pensions insurances and insurance companies for how the insurance premiums paid by the employer should be invested) to provide information about the combined pension plan that covers the consumer in question.

Both the question concerning the format of the capital requirement and contractual freedom in respect of the provision of information are among those that the Riksdag has requested that the Government revise. FI's regulations will therefore probably need to be worked on in 2020 on the basis of the legislative amendments proposed by the Government.

FEES WHEN TRANSFERRING AND SURRENDERING INSURANCE POLICIES

On 1 January 2020, the provisions in the Insurance Business Act and the new Occupational Pension Act entered into force, which clarifies what fees that insurance firms may charge when capital in private pension insurance policies and individual occupational pensions is transferred to another insurance firm and when endowment policies are surrendered.⁵⁸ FI and also the Swedish Consumer Agency, among others, have previously noted that several insurance firms have charged high time-independent⁵⁹ variable fees that are related to the volume of the saved capital. This may lead to especially high fees, primarily when transferring and surrendering large sums.

The new provisions state that the fees may not exceed an amount that equates to direct costs of administering the transfer or surrender of a policy and residual acquisition costs that are directly attributable to the policy being transferred or surrendered. The insurance firm may not

57 FFFS 2011:39 and FFFS 2003:7.

58 Please note that only insurance policies that are covered by a right of transfer, i.e. that were taken out after 1 July 2007, are currently subject to these provisions.

59 Variable fees that usually equated to a percentage of the volume of the saved capital and have been the same regardless of how long the policyholder has been saving.

charge any fee for residual acquisition costs if more than ten years has passed since the insurance contract was entered into.⁶⁰

For acquisition costs, this makes it clear that the fees are limited to acquisition costs that are directly attributable to the insurance policy in question and that the fees have to decrease as these costs are covered by ongoing fees. In practice, the acquisition costs should mainly pertain to the costs of commission for insurance intermediaries or remuneration for the firm's own sales team. The purpose of this clarification is, among other things, to prevent arbitrary fee structures, e.g. when the fee is calculated as a percentage of the saved capital.

New rules for remuneration paid to insurance intermediaries by insurance firms has also been in force since 1 October 2018. This remuneration may not be obviously disproportionate to the services that are performed by the insurance intermediaries and up-front remuneration is no longer permitted. In addition, the size of the pre-paid acquisition costs and thus also the fees for transferring and surrendering policies, will, in many cases, also decrease for new insurance contracts.

In terms of what may be included in the direct costs of administration, FI has, in 2019, produced draft regulations that have been referred for consultation. It is proposed that these regulations enter into force on 1 March 2020.

The information provided to consumers has to include details of the fees for transferring or surrendering the policy. Insurance firms have to be able to demonstrate to both consumers and FI how these costs have been calculated and allocated and what they pertain to.

FINANCIAL LITERACY

FI has nine educational projects for eleven target groups. In 2019, FI started new educational initiatives for senior citizens and produced new materials about digital services for the Swedish for immigrants (SFI) programme. Digital skills are now a necessity for managing personal finances and is therefore included in the personal finance course for target groups such as senior citizens and people who are new to Sweden.

One group that stands out in this household survey conducted by FI in 2017 is single parents, a larger than average group of which have difficulty coping with unforeseen expenses.⁶¹ To prevent problems in

⁶⁰ Through a recognition of 13 November 2019, the Riksdag has challenged the Government to promptly come back with a legislative proposal in which transfer fees are restricted further for unit-linked and deposit insurance policies.

⁶¹ *Rapport om hushållens ekonomi 2017* [Household finances report 2017], and interview survey targeting Swedish households commissioned by Finansinspektionen, 12/02/2018.

future, FI, together with the Swedish Board for Study Support (CSN), the Swedish Investment Fund Association, the Swedish Social Insurance Agency, the Swedish Consumer Agency, the Swedish Consumers' Banking and Finance Bureau, the Swedish Consumers' Insurance Bureau, the Swedish Enforcement Authority and the Swedish Pensions Agency, has produced educational materials for expectant first-time parents. This book can be ordered by people who work with pregnant women and it is handed out when registering for maternity care. The book can also be used by municipal budget and debt advisers in conjunction with parental education.

FI held a training day for home and consumer studies teachers in conjunction with the publication of the Swedish Schools Inspectorate's report on home and consumer studies teaching⁶². As a result of positive feedback about this training, FI will be continuing its work to provide personal finance training to teachers in 2020. See also p. 7.

SUSTAINABLE FINANCE

Sustainability issues have become more important to consumers when they are choosing financial services and making investment decisions.⁶³ FI is working with sustainability-related aspects in its ongoing supervision within all of its operational sections. From the perspective of consumer protection, specific reference can be made to the work to follow-up funds' sustainability information. FI is also engaged in dialogues with firms subject to supervision in order to ensure that they are taking sustainability aspects into account in their corporate governance. FI considers it a priority that consumers are able to make informed investment decisions in respect of sustainability in the financial market.

As part of the work within the EU on sustainable finance, two new legal acts were adopted in 2019 and a third is expected to be adopted in the first part of 2020. The objective of these is to reorient capital flows towards sustainable investments, manage financial risks stemming from climate change, depletion of resources, environmental degradation and social issues and to foster transparency and long-termism in financial and economic activity.

One of the regulations, which enters into force in March 2021, will require financial market participants to provide information about how sustainability risks are integrated into investment decisions and financial advice. There is also a

⁶² *Hem och konsumentkunskap i årskurs 7–9, Tematisk kvalitetsgranskning 2019* [Home and consumer studies in years 7–9, thematic quality review 2019], Ref. 400-2017:7330.

⁶³ Ecolabelling Sweden has commissioned a survey showing that almost half of Swedes are interested in saving in a fund if this is covered by requirements and checks concerning sustainability. Ecolabelling Sweden, January 2018. Industry surveys also show that many consumers have chosen funds because they focus on sustainability.

requirement to provide investors with information about sustainable investments. The purpose is to give consumers accurate and clear information so that they are able to make well-informed investment decisions. In other words it shall become easier for a consumer to understand how sustainable a financial product actually is, for example how large a proportion of the underlying investments are classified as sustainable and what strategies the manager is using. The rules are, in some respects, similar to the current Swedish legal requirement that fund managers provide sustainability information about their management. However, the European regulations are more extensive and concern not just fund managers but also others including portfolio managers, insurance undertaking which make available insurance-based investment products, institutions for occupational retirement provision and financial advisers. In 2019, FI has been working together with other European supervisory authorities to develop more detailed requirements that clarify what information has to be provided and how it is to be presented. This work will continue in 2020.

Requirement for Regulatory Development

According to FI's instructions, the consumer protection report shall also describe what requirement there is to develop new regulations in the area. In this year's report, FI would like to point out the need for credit providers to obtain from external sources a comprehensive picture of what debts a consumer who is applying for a loan already has. This would make it easier for them to collect sufficient data about the consumer's finances when conducting a creditworthiness assessment.

REQUIREMENT FOR A COMPREHENSIVE PICTURE OF THE CONSUMER'S TOTAL DEBT

The credit provider must conduct a creditworthiness assessment in order to ensure that consumers are only granted a loan when their financial circumstances allow them to meet their commitments under the credit agreement. The credit assessment must be based on sufficient data about the consumer's income, debt and expenses. The credit provider's far-reaching obligations in conjunction with lending are described in more detail under *Unaffordable lending*.

One way to establish as part of the credit assessment what debts the consumer already has is for the credit provider to obtain information from a credit reference firm. However, when the credit provider does this there is either a lack of data about the consumer's debts with other credit providers or the credit provider is only given data concerning the loans that are registered with other credit providers that are customers of the same credit reference firm. Under the Credit Information Act (1973:1173), it is possible for credit providers to exchange data with one another for credit reference purposes, but there is no obligation to do so. Consequently, the credit provider does not gain a comprehensive view of the consumer's total debt burden through external sources.

There are online forums where consumers who have a large number of debts give each other advice about which credit providers use which credit reference firms, with the aim of having loan applications granted in cases where they would probably be denied if all of their debts were known to the credit provider.

In many European countries there are various types of loan register or other models for collecting data about consumers' debts. These vary significantly in terms of their design and which loans are included. In Finland an inquiry has proposed the introduction of a positive customer register to combat problems with over-indebtedness. In Norway, new legislation has been in place since 1 July 2019. Credit providers that offer non-mortgage retail lending are obliged to provide information about the loans they issue. Credit providers are then able

to turn to the firms that have been licensed to provide this information in order to access comprehensive information about consumers' debts in conjunction with creditworthiness assessments. The legislation concerning the non-mortgage retail lending register is part of the Norwegian government's work to prevent over-indebtedness among households.

FI believes it is problematic that it is not possible in Sweden to gain a comprehensive view of a consumer's total debt through external sources. It is FI's opinion that one important measure to ensure credit providers are given the prerequisites to conduct good credit assessments and to prevent individual consumers ending up in a situation where they cannot meet their financial commitments is for there to be the opportunity to obtain information about all of a consumer's debts from external sources.

It is certainly true that a total picture of the consumer's debts would not be entirely complete as some loans that are not covered by the right to information sharing in the Credit Information Act would not be included in the list.⁶⁴ Nevertheless, FI believes it would be a substantial improvement on the current situation if credit providers are given the opportunity to gain a comprehensive view of all of the consumer's debts from an external source.

Consequently, FI is of the opinion that the Government should set up an inquiry to consider the introduction of a system that makes it possible for credit providers to gain a comprehensive view of consumers' debts. FI is of the opinion that this is a priority when it comes to raising the quality of credit assessments. It would be an effective tool in the work to combat over-indebtedness.

DEPOSIT INSTITUTIONS

In several reports, FI has pointed out risks in firms that are registered with FI but not subject to supervision.⁶⁵ One example is deposit institutions, whose business involves accepting deposits in exchange for interest but without being covered by the Riksbank's deposit insurance scheme. There is a risk that consumers who put

⁶⁴ Under Section 5a, paragraph 1 of the Credit Information Act, data concerning loans that have been issued, failure to pay and misuse of credit can be shared for credit reference purposes between Swedish credit institutions, payment institutions, electronic money institutions, investment firms, consumer credit firms and mortgage institutions, as well as firms that have authorisation to conduct credit reference operations from the Swedish Data Protection Authority pursuant to Section 3, first paragraph of the same act. Accordingly, certain loans from types of firm that are not covered by the provision would not appear in a list of all of the consumer's debts.

⁶⁵ *Tillsyn och registrering* [Supervision and registration], 7 April 2011, Ref 11-2145, and several consumer protection reports, most recently that from 2019.

their money into deposit institutions are under the false impression that it is a mark of quality that these firms are registered with FI when they are not actually subject to supervision.

In November 2019, the Ministry of Finance submitted a memorandum for consultation that contained a proposal to repeal the Deposit Business Act (2004:299).⁶⁶ This memorandum concluded that the risk of ending up in financial difficulties is greater for a deposit institution than for a credit institution. In addition, the assessment was made that consumers have limited potential to gain an understanding of the risks associated with this type of saving. The proposal in the memorandum involves deposit institutions being allowed to continue operating until the end of 2020 or, if an application for authorisation to conduct banking or financing business is submitted prior to this time, until such time as a final decision on the application has been made. Cooperative societies that were registered with FI on 1 July 2019 will be able to continue conducting deposit business and financing business that is not subject to authorisation. This applies to consumer cooperatives, housing cooperatives and savings and loans associations that target members and where the deposit business is subordinate to the primary business and contributes to financing the cooperative activities.

FI welcomes the proposal that it will not be possible to conduct deposit business without authorisation.⁶⁷

⁶⁶ Memorandum *Stärkt konsumentskydd på inlåningsmarknaden* [Stronger consumer protection in the deposit market], 12 November 2019, Fi2019/03768/B.

⁶⁷ FI's response to the consultation, 7 February 2020, Ref 19-24728.



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