

Securing Your Rights: The Power of Regulations on Financial Consumer Protection

Part II

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Commitment to fair, transparent and accountable financial services

As highlighted in the first article of this series, CBSL has introduced financial consumer protection regulations aimed at safeguarding the rights of financial consumers. Ensuring fairness, transparency, and accountability in the delivery of financial services is essential to achieving this goal. In this context, this article will explore the specific provisions within these regulations that address fair treatment, transparency, and the protection of consumers' financial data and assets.

Fair Treatment and Responsible Business Conduct

Sri Lanka is a cosmopolitan society which is home for different ethnic groups. Further, gender, disability, age and any other social differences illustrate the diversity of the financial consumers in the country. Hence, this section outlines the responsibilities of Financial Service Providers (FSPs) in promoting equitable access to financial products and services regardless of factors like social status, physical ability, and financial literacy of the financial consumer. It should be noted that discrimination against consumers based on their social status is strictly prohibited, and special attention should be given to vulnerable groups such as disabled and elderly financial consumers.

FSPs are required to adhere to accessibility laws in terms of enhancing accessibility of their physical infrastructure, ensuring that facilities like ATMs are accessible. Signatures, including electronic ones, should be clear and acceptable for verification, and thumbprints are treated equivalent to the conventional signature. Websites and mobile applications should be designed to be perceivable, operable, understandable, and robust, with considerations for factors like font size, navigation, and screen reader compatibility. FSPs must ensure documents are available in accessible formats and provide assistance to consumers when needed. Policies and procedures for offering financial products and services should be clear, fair, and designed to meet consumer needs, enabling informed decision-making. Contract terms must be balanced, avoiding any disproportionate advantage for the FSP, and any changes to contracts must be communicated in advance.

To safeguard consumers against fraud or misuse of assets, both internally and externally, FSPs must implement appropriate policies and procedures. They are required to respond promptly and respectfully to consumer inquiries and maintain records of all interactions. Advertising and sales materials must be accurate and free from misleading information, while remuneration structures for sales personnel should promote responsible business practices.

FSPs must gather sufficient information to assess product suitability and recommend options that address diverse consumer needs. Processes should also be in place to inform consumers of any sale or transfer of debt or services.

FSPs are legally accountable for the actions of their agents and third parties, requiring thorough due diligence and ongoing monitoring. Debt recovery processes must be conducted transparently, courteously, and without undue pressure or harassment.

Anti-competitive arrangements that restrict market access should be avoided, and systems must be designed to be open and interoperable. FSPs are encouraged to implement financial education and awareness initiatives, including warnings about the risks of over-indebtedness, to support consumer well-being.

These regulations aim to ensure FSPs operate in a fair, transparent, and inclusive manner, prioritizing consumer protection, equal access, and accountability.

Disclosure and Transparency

In this section of the regulations, the focus is on establishing clear and transparent guidelines for FSPs. The overarching goal is to create a level playing field for consumers and ensure they have access to accurate, detailed, and readily available information about the financial products and services they engage with. This not only facilitates well-informed decision-making but also safeguards the rights and interests of financial consumers.

One fundamental requirement is the maintenance of an official website by FSPs. These websites serve as a central platform for disseminating information about the provider's business activities, products, and services. Regular updates are necessary to keep the information current, reflecting any changes or developments in the financial landscape.

Clear and comprehensive disclosure is at the heart of these regulations. At every stage of a contract, FSPs are obliged to provide consumers with detailed information. This information must be presented in a manner that is not only complete but also clear, concise, accurate, and devoid of any misleading elements. Furthermore, FSPs must communicate this information in the preferred language of the financial consumer, which could be Sinhala, Tamil, or English.

To further enhance transparency, FSPs are required to create standardized documents known as "Key Facts Documents" for their financial products and services. These documents are designed to be accessible and written in plain language, ensuring that consumers can easily understand essential details about a particular product or service. Key components of these documents include the product's main features, terms and conditions, and procedures for addressing consumer complaints.

Transparency also extends to the contractual documents associated with financial products and services. FSPs must clearly outline the terms and conditions relevant to consumers in these documents. This includes specifying consumer rights and responsibilities, detailing potential risks, explaining interest rates, fees, charges, and providing contact information for the provider's consumer service.

For credit facilities and instruments, such as loans, FSPs must furnish comprehensive information in documents like application forms, offer letters, and agreements. These documents should include specific details about the borrower, loan terms, interest rates, penalties, and the security arrangements.

Another crucial aspect of these regulations pertains to the provision of account statements. These statements serve as a vital tool for keeping consumers informed about their financial transactions. They must be provided free of charge and can be presented in either written or electronic formats. The statements should encompass various details, including transaction histories, account balances, due dates, interest rates, fees, and any penalties incurred. To ensure that all consumers are treated fairly, FSPs must also disclose information about deposit accounts. This includes crucial details such as account balances, annual interest rates, account opening fees, maintenance fees, and procedures for closing accounts or addressing dormant account situations.

FSPs are responsible for confirming the settlement of financial obligations by consumers. They must issue a written declaration to verify that the consumer has fully met their financial obligations. Additionally, these regulations mandate that FSPs notify consumers in writing within a reasonable timeframe if there are any changes to the terms and conditions of their financial products or services. Such changes may include adjustments to interest rates, fees, or other key features of the products.

Protection of Financial Consumers' Assets and Information

In this section, a set of regulations is outlined to safeguard the interests and personal information of financial consumers when dealing with FSPs. These regulations address aspects related to the protection, confidentiality, and proper handling of consumer assets and personal data.

FSPs bear responsibility for the loss of a financial consumer's assets due to fraud, misappropriation, or misuse. However, this liability is exempted if the loss is attributed to the consumer's own negligence or fraudulent actions. FSPs are further mandated to take disciplinary action against their employees involved in such incidents and are encouraged to raise awareness about fraudulent practices among financial consumers.

FSPs are obligated to establish and implement policies and procedures that ensure the privacy and protection of consumer data. These measures should prevent unauthorized access, alteration, disclosure, loss, or destruction of consumer information. Misuse of personal data is strictly prohibited.

Further, FSPs are required to retain this information for a minimum of six years following the termination of the contract. Sharing consumer personal information with third parties is prohibited without the consumer's consent, except when required by law. Additionally, key information, contractual documents, and transaction history must be retained.

Furthermore, FSPs must ensure that data collection adheres to legal boundaries and serves specific, lawful purposes. Policies for collecting and using personal information should align with applicable regulations and laws, including those related to anti-money laundering and data protection. The use of personal data is limited to its original purpose, informed consent, or as mandated or permitted by the law and information related to a consumer's disability should be used

solely to facilitate their needs or protect their rights and should not be disclosed without their prior consent.

These regulations prohibit FSPs from sharing financial consumer information with third parties for marketing or promotional purposes without the explicit consent of the consumer, unless they align with the original purpose of data collection or is mandated by law.

Lastly, these regulations address the rights of financial consumers to access and rectify their personal information. FSPs must, upon request, grant financial consumers access to the personal information they hold. If a financial consumer claims inaccuracies or incompleteness in their data, the provider must take necessary steps to review and rectify these discrepancies and inform relevant third parties.

Overall, these regulations aim to protect the privacy and security of financial consumers' personal information while providing guidelines for data retention, disclosure, and rectification. They emphasize accountability, transparency, and the responsible handling of consumer data by FSPs.

Conclusion

In conclusion, maintaining trust is essential for safeguarding financial consumer rights. FSPs must adhere to regulations that promote fairness, transparency and the protection of financial consumer data and assets as discussed above. Equally important, financial consumers should be well-informed about these regulations, enabling them to fully exercise their rights and take appropriate actions if those rights are violated.