



Research and Development Proposals on Consumer Protection Mechanisms

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Abstract. While the term consumer is now well known, and the rights and interests of consumers are playing an increasingly important role, the concept of financial consumer is still relatively unknown in China, and its first official appearance in a public document issued by a government department was in the “Guidelines on Financial Innovation for Commercial Financial Institutions” published by the CBRC in 2006, this includes the topics “Financial innovation needs to better meet the needs of financial consumers” and “Safeguarding the interests of financial consumers”. The document that formally defines the concept of financial consumer can be traced back to the “Administrative Measures for the Protection of Financial Consumer Rights and Interests” issued in 2013, which states in its General Provisions that: “Financial consumers are natural persons who purchase or use financial products sold by financial institutions or receive financial services provided by financial institutions in the People’s Republic of China.” The definition was later simplified in the “Implementation Measures for the Protection of the Rights and Interests of Financial Consumers of the People’s Bank of China” issued by the Central Bank in 2016 to read: “A financial consumer is a natural person who purchases and uses financial products and services provided by a financial institution”, and this definition has not been changed again in subsequent relevant policies.

Keywords: Financial consumers · Protection of rights and interests · Consumer finance

1 Introduction

Financial consumers are the fundamental force behind the rapid development of the financial industry and play a pivotal role in maintaining financial order and promoting the development of the financial market. However, financial consumers are often at a disadvantage against financial institutions due to their lack of professionalism, inadequate risk recognition and difficulty in protecting themselves, which means that breaches by financial institutions are more likely to occur and consumer rights are more likely to be violated [1]. In addition, due to the complex and volatile nature of financial markets and the high risks involved, consumers are more likely to lose their ability to discern and make judgements in financial transactions than in general consumption, which can lead to unreasonable behavior on their part. Given that financial consumers play a pivotal

role in our economy, but are themselves in a lower position, their legal rights need further legal protection [2]. At the same time, strengthening the protection of legal rights, safeguarding the legitimate rights of financial consumers and reconciling the conflicting interests in between are conducive to maintaining the sound development of the financial sector, which is important for maintaining a sound financial order and prosperity, as well as further deepening the prevention and resolution of major risks.

2 Current Status of Financial Consumer Protection in China

2.1 Financial Consumer Protection Legislation and Regulatory Policy

Current Status of Financial Consumer Protection Legislation

At present, the main legal basis for dealing with disputes over financial transactions is the Consumer Protection Law and the relevant civil laws in the Civil Code, as well as the departmental regulations issued by the regulatory authorities. The Law on the Protection of Consumer Rights and Interests was amended in 2014 to include additional provisions on the protection of the rights and interests of financial consumers, for example, Article 28, which addresses the information disclosure obligations of service providers in specific areas, emphasizes the information on prices or fees, risk warnings and civil liability that financial service operators should disclose to consumers. This provision clarifies that the Act shall apply to financial consumers. The provisions of the Civil Code's Contracts and Tort Liability sections can often be applied to disputes over financial transactions, but as the relevant civil laws in the Consumer Rights and Interests Law and the Civil Code make general provisions, their application to specific financial environments is highly variable and cannot be systematized, and there are certain difficulties in practice [3].

2.2 Development of Financial Consumer Rights Protection Mechanisms

The protection mechanisms for financial consumers in China can be divided into three areas: governmental protection mechanisms, internal protection mechanisms of industry and financial institutions, and protection mechanisms of third-party social organizations [4].

Government Sector Protection Mechanisms

The Bureau of Protection of Financial Consumer Rights and Interests of the People's Bank of China and the Bureau of Protection of Banking Consumers' Rights and Interests of the China Banking Regulatory Commission are internal agencies of the People's Bank of China, comprising the General Department, the Supervision and Inspection Department, the Financial Consumer Education Department, the Complaints and Investigation Department and the Systems and Research Department, which are responsible for co-ordinating and planning the work of financial consumer protection, formulating development plans and establishing basic systems. The Bureau of Banking Consumer Protection of the China Banking Regulatory Commission (CBRC) is an internal agency

of the CBRC, comprising the General Division, the Policy and System Division, the Conduct Supervision Division and the Public Education Service Centre. Its main functions are to formulate overall strategies, the policies and regulations for the protection of consumer rights and interests of the banking industry and financial institutions, and to coordinate and promote the protection of the rights and interests of financial consumers [5].

Internal Protection Mechanisms Within the Industry and Financial Institutions

Internal consumer protection departments within financial institutions and industry financial consumer protection organizations form an internal protection mechanism. At present, most financial institutions in China have a service hotline and a customer service central, which will refer the enquiries and complaints received to the relevant departments or branches for processing and request them to finish processing and feedback the results within a specified time limit, and some customer service central will also make return visits to customers. This is the most direct and efficient way of dealing with complaints. A significant proportion of simple service disputes can be resolved through explanation or negotiation, but where the matter is complex or involves significant interests of one party, secondary complaints are likely to occur [6].

Third Party Protection Mechanisms

The social organization protection mechanism relies on financial dispute mediation workstations, online complaint platforms and public opinion monitoring. In 2010, the China Banking Regulatory Commission immediately issued the Notice on the Issuance of Certain Opinions on the Establishment of a Financial Dispute Mediation Mechanism (for Trial Implementation) to launch the construction of financial dispute mediation workstations on a pilot basis. In 2011, the Financial Dispute Mediation Centre within the Beijing Banking Association was established to undertake the mediation of financial disputes between members of the Association and their clients. In 2015, the CBRC organized a symposium on the mediation mechanism for letters and complaints and proposed the arrangement of “exploring the establishment of third-party dispute mediation institutions in Beijing, Shanghai, Sichuan and Shenzhen” [7].

2.3 Current State of Regulation of the Consumer Finance Industry

The types of penalties imposed by the local banking and insurance regulators in response to violations investigated by consumer finance companies are basically fines, orders to make corrections and, in some serious cases, direct penalties for those responsible. By counting the data on fines imposed by the CBRC on consumer financial institutions over the years, the summary is as follows: from 2015 to January 2022, a total of 29 administrative penalties were imposed by local CBRCs, in terms of the timing of the penalties, the first administrative penalty was imposed in 2015 and no penalty was imposed subsequently to 2016, at which point it can be seen that the supervision was in a more lax state; From 2017 to 2019, an average of six penalties are issued per year, with a marked increase in the number of penalties and a tightening of regulation; the number of penalties is unstable in 2020, but by 2021 the number also returns to the same level as in 2019 [8]. As shown in Fig. 1.

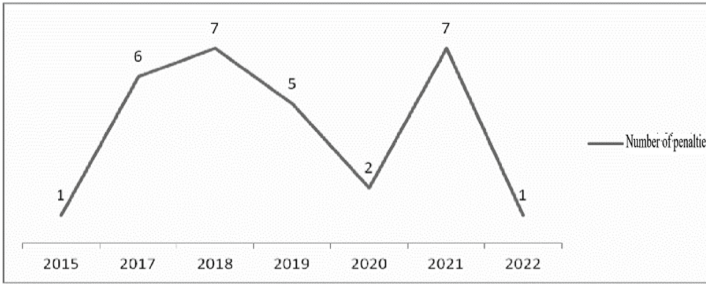


Fig. 1. Timing of penalties imposed on licensed consumer finance companies over the years

In terms of the target of punishment, 30 consumer finance companies are currently in operation, and a total of 18 institutions have been punished, with BOC Consumer Finance topping the list, having been punished four times; Northbank Consumer Finance has been punished three times, ranking second; other companies have been punished relatively few times. It represents a poor overall awareness of compliance in the industry and a serious situation of illegal operation.

3 Suggestions for Countermeasures to Protect the Rights and Interests of Financial Consumers

3.1 A Sound Legal System for the Protection of Financial Consumers’ Rights and Interests

The protection of the legitimate rights and interests of financial consumers is not only about individual micro-interests, but also about human rights protection and justice, as well as the security of the financial system, macroeconomic stability and the harmonious development of society. Although consumer finance is centrad on financial services, it is in the consumer that it is based, and the new form of consumer finance must not only ensure the innovative vitality of finance, but also protect the basic rights of consumers [9].

3.2 Improving the Regulatory Regime for the Consumer Finance Industry

Enhancing ACCNORESS and Monitoring of Scenarios for Financial Institutions

First, to further improve the depth of financial institutions’ access to scenarios. From the perspective of the stock, a mandatory product filing system should be implemented for current financial institutions, and the terms and conditions of each product and the mode of cooperation should be accessed for regulatory filing. From the perspective of incremental volume, it is necessary to strengthen the control over the access scenarios of each consumer finance company, and require each company to formulate the audit criteria for the cooperation channels, and strictly control the access qualification of the

new scenario installment cooperation channels and the risk of later operation. The second is to build a deep risk control mechanism for the scenario platform [10].

Strengthened Conduct Regulation of Financial Institutions

The concept of conduct regulation was introduced in the 1970s and did not receive much attention when it was first mentioned. The British economist Taylor introduced the concept of “Twin Peaks” in 1995, a management philosophy of both prudence and conduct, which aims to correct speculative behavior in financial institutions, prevent fraud and unfair trading and protect the rights of consumers and investors. At present, China’s CBRC regulates the business practices of consumer finance companies to a certain extent, but the sample size is relatively small from past data. Therefore, regulators should monitor the entire process of consumer finance companies more comprehensively, such as the use of consumers’ personal information and access to credit data, and should build a working system of on-site and off-site supervision to strengthen the supervision of the behavior of consumer financial institutions and to strictly enforce the law enforcement process [11].

Development of Fintech Tools to Monitor Compliance by Industry Players

The rapid development of consumer finance in China in recent years is not only the result of the encouragement of financial policies, the transformation of economic development and the change in consumer attitudes, but also the deep integration of financial technology and consumer finance, which has greatly improved the efficiency of consumer finance and the speed of product iteration and facilitated the rapid development of the industry [12].

3.3 Guiding the Establishment of Consumer Protection Systems Within the Industry

Currently, there is an urgent need to strengthen ethics and financial civility within the industry, enhance the sustainable development of financial markets and strengthen the protection of the rights of financial consumers. Consumer trust is vital to any consumer finance company, and consumer financial institutions must recognize the importance of consumer rights and be motivated internally to actively engage in their obligations to assist in safeguarding consumers’ rights and interests in order to secure their legitimate interests.

3.4 Accelerating the Development of the Financial Consumer Protection System

Improving Financial Dispute Resolution

Due to the large number of institutions in the consumer finance industry, the large number of customer groups and the small amount of the subject matter of the dispute, it is difficult for the regulator to deal with it on its own, so it should adopt a case classification approach to solve the problem, for example, according to the amount of the subject matter of the dispute, the nature of the complaint, etc. The case handler can be assigned to a mediation structure or the financial institution itself to deal with cases

of small amount and minor nature; In serious cases, the regulator will then deal with the case itself. This approach could significantly improve efficiency and increase coverage of major disputes that require regulatory intervention [13].

A Sound Mechanism for Linking the Protection of Financial Consumers' Rights and Interests

The people-centred thinking highlights the protection of consumers, which requires government regulation, self-awareness of financial institutions, self-regulation by associations, judicial protection, self-awareness of consumers, and widespread public scrutiny. In practice, therefore, a uniform complaints system with authority should be established.

3.5 Enhancing Financial Consumer Education

Innovative financial products of all kinds are becoming increasingly complex, and the usual information disclosure, as well as scientific knowledge for consumers, does not provide them with in-depth knowledge of financial products. To this end, what needs to be learnt in financial consumer education, how to learn it and who is responsible for delivering it are all questions that are currently being faced.

4 Conclusion

Looking back, the development of consumer finance can address the capital needs of many long-tail people who have been neglected by traditional finance, change the status quo of China's financial market with low financial access rates and enhance the development of inclusive finance in China. After more than ten years of development, there is still much room for progress in the protection of the rights and interests of financial consumers, and the legal system is inadequate and low-level in terms of its legal basis and the lack of a complete system; The industry's regulatory policies are lagging and monolithic, and enforcement has made it difficult to improve the coverage of consumer finance businesses with large business volumes; Lack of compliance awareness among consumer financial institutions themselves and the peripheral service providers they work with; The lengthy process of resolving financial consumer disputes is consuming and unaffordable for financial consumers; Consumers themselves lack the ability to protect themselves and are not sufficiently aware of complex financial products. By analysing the above problems, the regulator should supplement and improve the existing legal system, strengthen the operational audit and conduct supervision of the participating institutions in the consumer finance industry by improving regulatory measures and guiding them to establish a consumer rights protection system internally. It should also speed up the construction of a rights protection system, simplify the process of defending the rights of financial consumers, reduce the difficulty and save the cost of defending the rights of financial consumers, and also strengthen the education of financial consumers in order to make them understand financial knowledge, improve their discernment, enhance their own protection ability and reduce the possibility of their rights being damaged.

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