Market Conduct Regulation & Supervision: The Malaysia’s Experience

by
Suhaimi Ali
Director, Consumer and Market Conduct Department
Bank Negara Malaysia (Central Bank of Malaysia)
Agenda

1. Foundation for financial consumer protection framework in Malaysia

2. Approach & key strategies to ensuring fair treatment of consumers in Malaysia

3. Institutional set-ups for financial consumer protection in Malaysia

4. A risk-based approach to protecting financial consumers

5. Financial education strategies to develop financially competent Malaysians
Consumer protection initiatives in Malaysia support bigger national objectives

- Consumer protection (including financial education) initiatives support formal mandates of financial stability* and financial inclusion.
- Effective consumer protection regime allows informed participation by consumers in the financial system, thus further strengthen the position of consumers e.g. the household sector.
- Increased financial competence of the households and small businesses has seen greater demands for better suited financial services.
- More active consumerism is envisaged to have a pivotal role in driving efficiency in the financial services industry.

---

*“risk to financial stability” means a risk which in the opinion of the Bank disrupts, or is likely to disrupt, the financial intermediation process including the orderly functioning of the money market and foreign exchange market, or affects, or is likely to affect, public confidence in the financial system or the stability of the financial system.
Consumer protection regime in Malaysia is premised on “fair treatment of consumers” as the main outcome...

Desired outcomes for consumer protection framework:

- **fair dealings & fair treatment of consumers**
- **responsible business conduct** by our market players
- **enhanced informed participation** in the financial system by consumers
- **sustained public confidence & trust** in the financial system

Legislative framework has recently been strengthened to provide adequate powers to regulate business conduct and protect financial consumers’ interest

- **Clear mandate** to promote fair, responsible and professional business conduct
- **Protect the rights and interests of consumers** of financial services and products
- **Adequate powers for enforcement and penalty** (administrative, civil & criminal)
Meaningful and informed participation in the financial system can only be achieved when the environment is conducive for financial consumers

*Consumer protection initiatives are pursued in concert with efforts to promote financial inclusion*

<table>
<thead>
<tr>
<th>Consumer protection &amp; market conduct supervision</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Promote responsible conduct by FSPs for consumers to get fair deals</td>
</tr>
<tr>
<td>- Ensure meaningful information provided to consumers to make informed decisions</td>
</tr>
<tr>
<td>- Provide access to basic financial products</td>
</tr>
<tr>
<td>- Put in place effective assistance &amp; redress mechanisms</td>
</tr>
<tr>
<td>- Effective safety net in the form of deposit insurance and guarantee schemes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Inclusion initiatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>- distribution channels with widespread access e.g. agent banks, FA, direct channels, iBR1M</td>
</tr>
<tr>
<td>- diverse range of financial service providers</td>
</tr>
<tr>
<td>- supporting financial infrastructure &amp; enabling environment</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Developing financially competent Malaysians</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Equipped with the necessary knowledge, skills and tools to make informed financial decisions with confidence</td>
</tr>
<tr>
<td>- Capable to build, manage and protect their wealth</td>
</tr>
<tr>
<td>- Strong consumer activism that helps drive efficiency in the financial sector</td>
</tr>
<tr>
<td>- Empowered to take necessary actions when treated unfairly by FSPs</td>
</tr>
</tbody>
</table>

About 300 regulated entities: banking institutions; insurance companies and takaful operators, money brokers; insurance and takaful brokers; insurance & takaful adjusters; financial advisers (FA) & FA representatives
A well functioning consumer protection regime focuses on 4 core policy objectives of **transparency**, **fair treatment** and **effective recourse** that co-exist with **financial capability** strategies.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal mandate, dedicated functions, industry codes, gatekeeping regime, FTFC</td>
<td>Product transparency &amp; disclosure regime, proper advice, prohibited conducts</td>
<td>Early notification of changes to terms, clear settlement process, proper account handling, fair debt collection</td>
<td>Secrecy provision, personal data protection, customer info protection</td>
<td>Complaint mgmt @ FSPs &amp; BNM, free access to financial mediation, counseling &amp; DMP @ AKPK</td>
<td>PIDM – deposit insurance, takaful and insurance benefit protection</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Integration of FE elements into school curriculum, AKPK for adult financial education</td>
<td>Arrangement with MyCC on competition matters i.e. tied selling &amp; collusive behavior.</td>
<td>Basic savings &amp; current accounts, iBR1M, Sihat (Healthy) Malaysia</td>
</tr>
</tbody>
</table>
In Malaysia, financial consumer protection and market conduct supervision is placed with the central bank to leverage on existing internal synergy

- Consumer protection agenda supports formal CB mandates of financial stability and financial inclusion.

- Consumer protection policy making benefits from broad macro financial and economic surveillance and analysis. Policymaking is necessarily a balancing act between various objectives.

- In reality, not so much conflict of interest between conduct and prudential supervision (in many ways complementary)

- Potential conflicts of interests between prudential and market conduct supervision can be addressed through proper governance.

- Internal twin peak structure promotes check and balance that preserves a strong focus on both “safety and soundness” and “consumer protection” objectives. Enforcement function is separated from the prudential and conduct supervision, and resides with the Financial Intelligence and Enforcement Department of the Bank.

- Power comes with accountability which is be clearly set-out in the law.

- Sharing of resources within CB reduces cost of regulation (e.g. administration, IT, HR, talent, training)
Continuous efforts to ensure fair outcome to consumers through enhanced regulatory regime & by addressing consumer issues

Areas of regulation to date… *(examples only, not exhaustive)*

**Banking**
- Fees & charges
- Fair debt Collection
- Responsible Lending/Financing
- Transparency & Disclosure
- Basic banking services
- Redress mechanisms (e.g. complaints handling, arrangement with AKPK & FMB)
- Consumer protection on electronic fund transfer
- Credit card, charge card, debit card
- Disclosure of customer information
- Reference rate framework
- Prohibited conduct

**Insurance**
- Claims practices
- Code of good practice
- Introduction to new life insurance/takaful products
- Proper advice
- Introducers’ fee
- Redress mechanisms
- Replacement of policies
- Unfair practices
- Prohibited conduct
- various guidelines for intermediaries
- Investor protection (jointly issued with securities commission)
Malaysia adopts a risk-based approach to protecting financial consumers.

1. Conduct-risk assessment and priorities
2. Market conduct policies
3. Consumer empowerment/financial literacy strategies
4. Market conduct supervision & supervisory actions
5. Input to development of market conduct standards
6. Input to financial capability development strategies & initiatives
7. Input to individual conduct risk profile of FSPs
8. Senior Management
9. Enforcement actions (via Enforcement Committee)
10. Prudential supervision

- Conduct risks to consumers are addressed through MC policies, MCS, or financial education.
- Prioritization of focus areas, assessment of market conduct risk controls, supervisory interventions & enforcement actions.
- Escalation of market conduct issues affecting financial inclusion agenda, public confidence, safety & soundness of an FSP & financial stability.
**Market Conduct Supervision** has been strengthened to deal with conduct risks.

<table>
<thead>
<tr>
<th>Enhanced MCSF</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Early identification of MC risks</td>
<td></td>
</tr>
<tr>
<td>Greater engagement with FSP’s Board and Senior Management and Other Stakeholders</td>
<td></td>
</tr>
<tr>
<td>Better prioritization of supervisory focus areas</td>
<td></td>
</tr>
<tr>
<td>Optimal allocation of supervisory resources</td>
<td></td>
</tr>
<tr>
<td>More intensive market conduct supervision</td>
<td></td>
</tr>
<tr>
<td>Forward looking and preventive supervisory actions</td>
<td></td>
</tr>
</tbody>
</table>

Market conduct supervision focuses on “treating customers fairly (TCF)” areas to assess quality of control functions:

<table>
<thead>
<tr>
<th>Product Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Product Design</td>
</tr>
<tr>
<td>Contract Terms, Fees and Charges</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Product Distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales and Marketing</td>
</tr>
<tr>
<td>Incentives and Remuneration</td>
</tr>
<tr>
<td>Trainings and Competencies</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>After Sales</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer Related Services</td>
</tr>
<tr>
<td>Advisory and Redress</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Personal Data Protection</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Handling of Client’s Monies</th>
</tr>
</thead>
</table>
Current priorities are focused on dealing with conduct risks as well as enhancing existing consumer protection framework.

**Examples of conduct issues & recent actions**
- **Misselling** of investment-linked & insurance products
- **Forced selling** and bundling financial products
- **Mishandling** of client monies

**Examples of ongoing initiatives:**
- Development of **Treat Customers Fairly standards** for clearer expression of regulatory expectations to FSPs
- **Mgmt of participating business** for insurance & takaful operators
- Guidance on **prohibited conduct**
- **Operationalisation of enforcement framework**
- Focus on **proactive prevention of misconduct** through principle-based supervision with effective enforcement
- Establish **sustainable framework for FE learning across life stages** (including in schools)
- Transformation of the Financial Mediation Bureau to become a **Financial Ombudsman Scheme**
- **Change of regime** on pre-contractual disclosure by the insurers and takaful operators
- Support implementation of **LIFE Framework**
- **Raise standards** on conduct of suitability assessments, sales practices & business efficiency
- **Enhance professionalism** of intermediaries & strengthen gatekeeping regime

---

**KPI1:** Early detection of conduct risks  
**KPI2:** Strengthened regulatory environment that promotes responsible business conduct  
**KPI3:** Credible supervisory actions that ensure consumers get fair deals  
**KPI4:** Insurance intermediary reforms  
**KPI5:** Improvements in business efficiency through industry driven initiatives  
**KPI6:** Consumer empowerment as the first line of defense against poor market practices  
**KPI7:** Secure preconditions for implementation of LIFE framework  
**KPI8:** Effective workforce supported by conducive work environment

---

**Examples of conduct issues & recent actions**

- RM54.9m of premiums refunded (5 FSPs) due to misselling
- RM1.4m of premiums refunded (52 cases) due to forced selling
- Licenses of 2 insurance brokers revoked, 1 suspended
- Supervisory action on tied selling involving 700,000 policies
- Termination of agency force due to misselling
Bank Negara Malaysia drives financial education initiatives at the national level

● **Formulation of policies & setting strategic direction**
  - Defining roles of BNM, industry associations, other agencies
  - National Financial Education Network (being established)

● **Setting strategic direction**
  - Integration into school curriculum; School adoption programme; adult education via AKPK (Credit Counseling and Debt Management Agency)

● **Identification of target groups and priority areas**
Understanding consumer behavior is key for policymakers to design appropriate financial literacy initiatives and undertake policy interventions.

**Recent studies conducted**

- OECD (INFE) 2010: Data: Measuring Financial Literacy Among Malaysians
- Household Preparedness for income shock*
- Financial Distress and Debt Management*
- Review on Measuring Effectiveness of Financial Literacy*
- Impact of POWER! Programme by AKPK*

**Ongoing Research Work**

- Effectiveness of Mandatory Disclosure Requirements**
- Effectiveness and Impact of Responsible Lending Requirements*
- Fairness of Interest Rate Methodology on Loan Accounts

* in collaboration with a local university
** in collaboration with CGAP/ideas42
The findings from past studies have several important implications

- The need to intensify **education at school levels**
- The need for financial literacy initiatives to ensure effective **planning for retirement and ability to sustain through retirement**
- Need to **educate households on the minimum level of emergency funds required**, as 2/3 of households are poorly prepared for income shocks with savings of less than 3 months.
- To **look beyond financial education in changing the behaviour** as cultural aspects and behavioral biases also play a role in decision making process
- Low earning power (of the young) + rising costs – **importance of educating the young on better financial management** & to cultivate the habits of living within one means
- Need to **focus education on risk diversification & management**, including to diversify savings by investing part of savings funds (for those with financial capability) and risk mitigation via insurance.
- To **re-examine measurement for financial behaviour and attitude** with less reliance on self assessment.
Financial education strategies are focused on building financially competent Malaysian consumers

1. FE promoted as an **essential life skill from early age**

2. Adult financial capability programme made **available at all life stages**

3. Implementation of effective FE initiatives supported by **robust FE Assessment Framework**

4. Comprehensive **access to reliable and timely FE information**

5. FE Network to coordinate and drive FE initiatives at national level

---

**Enabling infrastructure:**

1. FE in schools
2. FCP for adults
3. Assessment Framework
4. Access to information
5. FE Network
Multiple redress avenues available for financial consumers

Financial Mediation Bureau
www.fmb.org.my

LINK & Regional Offices
- BNMLINK
- BNMTELELINK, SMS 15888
- MOBILE LINK
- Complaints Management and Advisory

Contact details on BNM’s website

Complaints Unit @ FSPs

SME Special Units at FSPs & BNM – assist SMEs on financing

Small Debt Resolution Scheme
A unit within BNM

ABM Connect
The Association of Banks in Malaysia
- www.abm.org.my
- eABM Connect
- Toll Free Helpline

www.smeinfo.com.my

Credit Counseling And Debt Management Agency
www.akpk.org.my
Effective collaboration internally and externally is key to having robust consumer protection regime

**Internal Collaboration**

**Regulation: Prudential and Financial Policy, Payment System Policy, FSD, DFE, Communication**

- Deliberation and integration of relevant market conduct requirements into new policies

**Macro- Surveillance: Financial Surveillance**

- Macro-prudential analysis and deliberation on emerging consumer trends and issues in financial services and non-financial services sectors that require supervisory response

**Micro- Surveillance: Bank & insurance supervision depts, LINK & Regional Offices**

- Coordinate and agree on micro prudential approaches in addressing conduct risk in conflict with prudential goals identified in financial service providers

**External Collaboration**

**Other Regulators**

- Consultation on introduction and implementation of Acts and policies affecting consumer interests
- Coordinate market conduct oversight activities and ensure that areas of regulatory overlaps are effectively and efficiently managed

**Industry Associations & players**

- Periodic engagement to strengthen understanding and commitment in adopting principles of FTFC
- Consultation on introduction and implementation of market conduct policies
- Support enforcement of industry codes

**Redress and Advisory Bodies**

- Coordinate and pool resources in consumer interface and education initiatives e.g. investors protection, money & debt management, awareness on financial scam
- Avenue for consumer advisory services and dispute resolution

**Consumer groups**

- Secure buy in on policy measures and receive inputs on consumer issues
Thank You