

Technical Note

Establishing a Financial Consumer Protection Supervision Department

Key Observations and Lessons Learned in Five Case Study Countries

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ABBREVIATIONS

BCSD	Banking Conduct Supervision Department (Portugal)
BP	Banco de Portugal
CBA	Central Bank of Armenia
CBI	Central Bank of Ireland
CNB	Czech National Bank
CPD	Consumer Protection Department (Czech Republic)
CPD	Consumer Protection Directorate (Ireland)
CPMCD	Consumer Protection and Market Conduct Division (Armenia)
FCPSD	financial consumer protection supervision department
GPU	Products and User Services Office (Peru)
INDECOPI	National Institute for the Defense of Competition and Protection of Intellectual Property (Peru)
IFSRA	Irish Financial Services Regulatory Authority
SBS	Superintendency of Banking, Insurance, and Private Pension Funds (Peru)

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EXECUTIVE SUMMARY

Results of the World Bank’s 2013 Global Survey on Consumer Protection and Financial Literacy show that financial regulators are increasingly focusing attention and resources on financial consumer protection. The number of financial regulators dedicating resources to financial consumer protection increased between 2010 and 2013 from 68 percent to 89 percent. In 2013, 72 percent of a total of 114 agencies had dedicated teams or units for financial consumer protection within the financial regulator, with many teams created in the past few years.

This technical note is intended to assist policymakers and regulators seeking to establish a financial consumer protection¹ supervision department (“FCPSD”) within the main financial regulator of a country.² The note provides concrete, practical information drawn from the experiences in five countries: Armenia, the Czech Republic, Ireland, Peru, and Portugal. These countries provide examples of the successful development and establishment of FCPSDs, all of which have been operating for at least five years. A comparative table summarizing the main elements in the establishment of FCPSDs in case study countries can be found in Annex A.

The scope of this technical note is financial consumer protection supervision. The primary focus is on supervision and activities related to supervision, such as enforcement and rule-making. However, given that FCPSDs are commonly found to conduct a range of consumer protection-related activities (e.g. complaints handling, financial education and literacy, and information sharing), this note will briefly discuss these activities and how they may impact the organizational structure and activities of a FCPSD.

It is important to emphasize that there is no one approach to establishing a FCPSD that can be copied in all countries. There is also no orderly, step-by-step process. How a FCPSD is established will be highly dependent on country context, including such factors as the legal framework for the financial sector, the organizational structure, size, and capacity of the main financial regulator, political priorities, the stage of development of financial markets, and major consumer protection concerns.

Nevertheless, there are useful observations that can be made and lessons learned by examining the common obstacles faced by FCPSDs and the different approaches utilized in establishing such departments. All FCPSDs in case study countries faced a variety of obstacles, including a lack of internal support, perceived conflicts of interest with prudential supervision, capacity constraints, and the inherent difficulties associated with starting up operations for the new (and potentially very broad) topic of financial consumer protection.

A number of organizational and operational strategies used by FCPSDs in case study countries to address these obstacles are noted below. These strategies are also summarized in Table 1.

¹ The terms “financial consumer protection” and “market conduct” are used interchangeably in this technical note, as both terms are used in different countries to connote similar concepts.

² Note that there are other institutional arrangements which can be considered for financial consumer protection, such as the “twin peaks” model. For purposes of this paper, the discussion is limited to a department within the main financial regulator.

An initial starting point for establishing a FCPSD is ensuring a strong and clear legal mandate to undertake financial consumer protection combined with high-level policymaker support. Ideally, the financial regulator should be assigned (1) rule-making powers, (2) oversight and monitoring powers, and (3) enforcement powers in order to effectively undertake financial consumer protection supervision activities. High-level public and political support is also necessary to overcome initial obstacles. In many case study

countries, the impetus for financial consumer protection came from the Ministry of Finance.

The scope, coverage, and statutory responsibilities of FCPSDs should be broadly established, but actual implementation should begin on a small-scale and expand strategically over time. Covering a wide range of financial institutions and products allows for harmonization of supervision activities and the greatest breadth of consumer protection. However, given

TABLE 1: PRACTICAL CONSIDERATIONS WHEN ESTABLISHING A FCPSD

LEGAL MANDATE AND HIGH-LEVEL SUPPORT

- Ensure that the financial regulator has a strong, broad, and clear legal mandate to undertake financial consumer protection supervision.
- Assign the financial regulator with comprehensive powers necessary to undertake financial consumer protection supervision, including rule-making, oversight and monitoring, and enforcement powers.
- Aim for high-level, public, and political support from outset from both within and outside of the financial regulator.
- Prove relevance and importance of FCPSD's work over time to generate acceptance and understanding.

SCOPE, COVERAGE, AND STATUTORY RESPONSIBILITIES

- Clearly specify scope and coverage of financial consumer protection supervision by type of financial institution or type of product or service.
- Coordinate with other regulatory agencies involved in consumer protection.
- Establish relatively broad statutory objectives and responsibilities, but be flexible in implementation priorities.
- Conduct initial risk-based assessment to determine immediate priorities and agenda.
- Can start small-scale and expand consciously and strategically over time.

ORGANIZATIONAL STRUCTURE

- Begin as smaller internal division within larger department for ease and quickness of launch.
- Establish the goal from the start to become a stand-alone department in long-run.
- Clearly separate consumer protection supervision from prudential supervision by either housing it in a separate department or placing it at the same level of hierarchical authority as prudential supervision.
- Where possible, have FCPSD report directly to a different board member than prudential supervision department to reinforce independence.
- Coordinate with other departments within the financial regulator as an explicit strategy to leverage resources.

STAFFING AND INTERNAL STRUCTURE

- Hire staff with experience in a variety of sectors and backgrounds to provide flexibility to address expanding activities of FCPSD.
- Provide staff with in-house training and allow for learning by practice.
- Begin with smaller staff size with more limited activities and grow from there.
- Organize internally by function to allow for staff with greater degree of specialization.

SUPERVISORY TOOLS

- Conduct independent on-site inspections where capacity allows; consider targeted on-site inspections on particular themes or issues.
- Where on-site inspections are conducted with prudential supervision, use clear supervision manuals and coordinate with prudential supervision on inspection results.
- Develop a systematic, risk-based program of regular off-site supervision and market monitoring to make most effective use of resources.
- Allow FCPSD to directly request voluntary corrective actions.
- Consider providing FCPSD with rule-making authority with respect to financial consumer protection.

capacity constraints, FCPSDs should develop an initial risk-based agenda to determine immediate priorities and leverage resources for maximum impact.

FCPSDs are often placed within the organizational structure of the financial regulator as either (1) a stand-alone department, or (2) an internal division within an existing department.

Operating as a stand-alone department provides the benefits of independence and greater levels of resources and authority. For countries facing limited resources though, beginning as an internal division within a larger department is easier to launch from an operational perspective and allows a FCPSD the necessary time to establish and prove itself. Regardless of organizational structure, there should be a clear separation between financial consumer protection supervision and prudential supervision, or else prudential supervisory priorities will end up dominant and given higher priority.

Staff members should have a variety of skillsets and will require significant training. Staff sizes in case study countries ranged widely, from 6 to 85 staff members.

Given that financial consumer protection supervision represents a new area with evolving activities, it is beneficial to hire staff with backgrounds in a variety of sectors. Prior supervisory experience is not mandatory, as all staff will require extensive training and “learning by doing” in financial consumer protection supervision due to the fact that the content and methodology of financial consumer protection supervision differs greatly from prudential supervision.

On-site inspections can be conducted either: (1) independently by FCPSD staff, (2) jointly with both FCPSD and prudential supervision staff, or (3) primarily by prudential supervision staff with occasional participation by FCPSD staff.

While it is arguably preferable to conduct on-site inspections independently, this approach may not be feasible in all countries. Leveraging existing prudential supervisory resources may be the most practical approach for low-capacity FCPSDs just starting operations. In such a situation, detailed supervision manuals should be developed to ensure that inspections are conducted appropriately and in a consistent fashion.

I. BACKGROUND AND METHODOLOGY

Background on financial consumer protection

Financial consumer protection and financial education policies, in conjunction with the regulation of financial institutions and markets, help to ensure safe access to financial services and support financial stability and financial inclusion objectives.

Financial consumer protection can contribute to improved efficiency, transparency, competition, and access to financial markets by reducing information asymmetries and power imbalances among providers and users of financial services. The global financial crisis further highlighted the importance of financial consumer protection for greater financial stability.

Financial regulators around the world are increasingly focusing attention and resources on financial consumer protection legal and institutional arrangements. Results from the World Bank's 2013 Global Survey on Consumer Protection and Financial Literacy show that the number of financial regulators dedicating resources to financial consumer protection increased between 2010 and 2013 from 68 percent to 89 percent. 72 percent of a total of 114 agencies had dedicated teams or units for financial consumer protection within the financial regulator, with many teams created in the past few years. In more than half of economies, those units are established separate from prudential supervision.³

Methodology

This technical note examines the experience of establishing the five FCPSDs listed in Table 2. These five examples represent

the successful establishment of FCPSDs in generally small-to-medium sized countries which provide useful examples that can be applied in a broad range of other countries. Information was obtained through desk research, surveys completed by supervisors working in FCPSDs in each of the five case study countries, and follow-up interviews conducted with these supervisors in October and November, 2013.

II. LEGAL MANDATE AND HIGH-LEVEL SUPPORT

Establishing legal mandate and regulatory powers

Ensuring that the financial regulator has a strong and clear legal mandate to undertake financial consumer protection supervision is the initial starting point to establishing a FCPSD. Such a legal mandate should be specified by law, such as in the law on the financial regulator or the main law on financial institutions. In Armenia, amendments in 2008 to the Law on the Central Bank of Armenia (CBA) added to “ensure essential conditions for protection of the rights and lawful interests of the financial system consumers”⁴ to the list of the CBA’s main objectives. In 2008, Banco de Portugal (BP) received the mandate for market conduct supervision through an amendment to the Legal Framework of Credit Institutions and Financial Companies.⁵

³ World Bank, 2013, “Global Survey on Consumer Protection and Financial Literacy: Results Brief,” <http://responsiblefinance.worldbank.org/~media/GIAWB/FL/Documents/Publications/Global-Consumer-Protection-and-Financial-Literacy-results-brief.ashx>.

⁴ Article 5, Section 1(f) of Law on the Central Bank of the Republic of Armenia of 1996 (as amended).

⁵ Decree-Law No 1/2008 of 3 January.

TABLE 2: NAME AND ESTABLISHMENT OF FCPSDS

	ARMENIA	CZECH REPUBLIC	IRELAND	PERU	PORTUGAL
Name of FCPSD	Consumer Protection and Market Conduct Division (CPMCD)	Consumer Protection Department (CPD)	Consumer Protection Directorate (CPD) ^a	Products and User Services Office (GPU)	Banking Conduct Supervision Department (BCSD)
Established in	2007	2008	2003	2006	2008
Financial regulator within which established	Central Bank of Armenia	Czech National Bank	Financial Services Regulatory Authority ^b	Superintendency of Banking, Insurance, and Private Pension Funds	Banco de Portugal

^a Formerly called the Consumer Protection and Codes Division.

^b Irish Financial Services Regulatory Authority incorporated into Central Bank of Ireland in 2010.

Though seemingly obvious, it is worth noting that laws and regulations on financial consumer protection itself should be established with or even precede the legal mandate for supervision, so that supervisors have a set of standards regarding which to monitor and provide oversight. The legal mandate for financial consumer protection supervision may therefore be linked to these corresponding laws. For example, the Czech National Bank (CNB) is tasked with performing supervision of compliance with the obligations set out in the Czech Civil Code with respect to consumer protection and unfair business practices. Similarly, the Superintendency of Banking, Insurance, and Private Pension Funds (SBS) in Peru is required to take measures to ensure compliance with the complementary law to the Consumer Protection Code on financial services matters.

The legal basis for regulatory powers with respect to financial consumer protection should also be firmly established, and should ideally include: (1) rule-making powers, (2) oversight and monitoring powers, and (3) enforcement powers.⁶ One of the main reasons the Consumer Protection Department (CPD) in the CNB was created was due to the fact that, although consumer protection laws already existed, the actual power to obtain the necessary information from banks to undertake consumer protection activities was lacking. In Portugal, where the government was very active in issuing new laws on financial

consumer protection, oversight powers were added from the start for each law. When BP received the specific mandate for banking conduct supervision in 2008, it also received a comprehensive set of regulatory powers for rule-making, oversight, and enforcement. Oversight and monitoring powers that are uniquely critical to financial consumer protection supervision, such as mystery shopping, should be clearly established from the start.

Supervisors interviewed for this report noted that it may be necessary to carefully define, and perhaps even initially circumscribe, regulatory powers in order to balance competing interests and address stakeholder concerns. For example, BP's rule-making powers were primarily limited to the ability to issue disclosure requirements and codes of conduct; it cannot take actions such as setting maximums for bank fees. The oversight and monitoring powers of the CNB were quite limited in the beginning (the CPD was not authorized to conduct on-site inspections or market monitoring) because consumer protection supervision was seen as a conflict of interest with prudential supervision. Striking the right balance between defining regulatory powers to be acceptable to various stakeholders while maintaining sufficient powers to be able to

⁶ Note that these three sets of powers will not necessarily all be held specifically by the new FCPSD itself.

Case Study 1: Czech Republic—Building Support Over Time

In the Czech Republic, the largest obstacle that the new CPD faced was lack of internal support. The Board of the CNB believed that there was a conflict of interest between prudential supervision and financial consumer protection supervision. The Board also expected the CPD to fight against the level of bank fees and interest rates for consumers, which was considered undesirable and contrary to the CNB's liberal policy towards fees and interest rates in the financial market.

The CPD utilized various strategies to address these concerns. As previously noted, the CPD's initial oversight and monitoring tools were limited. The department has focused its work and the exercise of its power on transparency, rather than more intrusive regulation of products. Requests for corrective action have focused on disclosure of information to consumers; modifications to the terms of a product are only requested on occasion.

After five years, the CPD is now viewed with more support within the CNB. The department has proven that its work can complement prudential supervision and it is now considered by management to actually increase the reputation of the CNB.

effectively undertake financial consumer protection supervision activities is clearly a critical and delicate task.

Generating high-level support

Regulators seeking to establish FCPSDs should be aware that they are quite likely to face high-level resistance from management as well as from the financial industry. Supervisors in case study countries noted that their departments were initially deemed an “unwanted child” within the organization and that this prevailing attitude was one of the largest obstacles faced by new FCPSDs. Consumer protection was generally viewed by top-level management as a low priority and a potential conflict of interest with prudential supervision and financial sector stability. Financial institutions also raised objections over increased compliance, reporting, and oversight costs.

High-level support from the outset will be necessary to overcome this initial resistance. In the Czech Republic and Portugal, the impetus for financial consumer protection supervision came externally, from the Ministry of Finance. Highly public and political support from policymakers appears to be vital for the long-term survival of FCPSDs. Strong support from the head of the financial regulator is also important in order to overcome internal skepticism and inherent obstacles.

FCPSDs will need to prove themselves over time to generate acceptance and understanding. Supervisors interviewed for this technical note actively worked to build credibility and demonstrate the systemic importance of both financial consumer protection supervision work itself as well as its beneficial links to financial stability and complementarity to prudential supervision. FCPSDs were required to show results in order to win over top management. In most cases, it took a few years to change attitudes and develop a consumer protection culture.

III. SCOPE, COVERAGE, AND STATUTORY RESPONSIBILITIES

Scope and coverage

The scope and coverage of financial consumer protection supervision should be clearly specified. A variety of factors

should be considered in determining which markets FCPSDs can and should cover. Ideally, the broadest possible range of financial institutions and products should be covered by supervisory activities in order to harmonize supervision activities and have the greatest impact. However, resource and capacity constraints as well as existing institutional arrangements make universal coverage impractical or unfeasible in most cases.

Countries generally specify coverage by type of financial institution and/or type of product. The department’s coverage will obviously be limited to those types of institutions supervised by the financial regulator. Financial regulators that have integrated, comprehensive supervision over the majority of financial institutions in a market will be able to achieve the broadest coverage with respect to financial consumer protection. In the Czech Republic, the CPD supervises banks, credit unions, payment institutions, insurance intermediaries, and investment firms. It does not supervise non-bank consumer credit providers, leasing companies, and mortgage intermediaries.⁷

Financial consumer protection supervision is often limited (formally or informally) to retail products and services. In most countries, it will be necessary to narrow the scope of financial consumer protection to target the use of limited resources. The goal should be to cover those users of financial services that are most vulnerable to abuse. Focusing on “retail” can be a convenient means of prioritizing supervisory attention. In Ireland, while a broad range of financial institutions fall under the ambit of the CBI, financial consumer protection supervision explicitly focuses on retail institutions and products. Similarly, the BCSD in Portugal supervises retail banking products and services provided by credit institutions, payment institutions, and e-money institutions. A summary of the scope and coverage of the respective FCPSD in each case study country is provided in Table 3.

However, new FCPSDs should avoid simplistically applying a “retail” focus, but instead adopt the approach that is best-suited to individual country context and includes all potentially vulnerable users of financial services. The boundaries of what is considered “retail” differ by country in both definition and

⁷ Note that this arrangement presents a potential gap in comprehensive financial consumer protection supervision.

TABLE 3: SCOPE AND COVERAGE OF FCPSD

CPMCD IN ARMENIA	CPD IN CZECH REPUBLIC	CPD IN IRELAND	GPU IN PERU	BCSD IN PORTUGAL
Retail products provided by all financial institutions (banking, microcredit, insurance, payments, investment companies)	Banks, credit unions, payment institutions, insurance intermediaries, investment firms (excludes non-bank consumer credit providers and mortgage intermediaries)	Financial products and services provided by retail credit firms, retail intermediaries (insurance, investment, mortgage), payment institutions, debt management firms, credit institutions, insurance companies, investment and stockbroking firms, and moneylenders	Banks, microfinance institutions, insurance companies, and private pension funds (excludes savings and credit cooperatives and capital markets)	Retail banking products and services (credits, deposits, and payment services)

rigidity. In Armenia, retail refers to all products delivered to individuals. In Portugal, while the “retail” focus primarily translates to a focus on products and services sold to natural persons, the BCSD’s financial consumer protection supervision activities also include small and medium enterprises.⁸

In some countries, it may be necessary to clarify lines of coverage between the financial regulator and other regulatory bodies.

To the extent that other regulatory bodies undertake financial consumer protection supervision, such activities will benefit from coordination and communication between agencies. For example, this may include telecommunications regulators

(with respect to branchless banking), securities regulators, or general consumer protection agencies. In Peru, the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) is an autonomous institution responsible for cross-sector consumer protection and can impose binding remedies and sanctions for breaches of the Consumer Protection Code. Though a MOU exists between the SBS and INDECOPI, it does not appear to be fully or effectively

⁸ The issue of whether and how financial consumer protection should cover small and medium enterprises is the subject of a forthcoming technical note from the World Bank.

Case Study 2: Peru and Portugal—Expanding Coverage and Scope

The experiences in Peru and Portugal illustrate that the scope and coverage of financial consumer protection supervision can begin on a more limited basis and expand gradually over time. In Peru, market conduct supervision by the Products and User Services Office (GPU) began in 2005 with banks and microfinance institutions. Coverage of insurance providers and private pension funds was only added in 2013, when transparency regulation was issued for these institutions. Consumer protection responsibilities for private pension funds on transparency-related issues, which were previously held by another department within the SBS, are currently being transferred to the GPU. This move helps to centralize consumer protection supervision within the SBS and ensure a more consistent supervisory approach.

In Portugal, BP has seen its authority for market conduct extended pursuant to new legal provisions. For example, the Payment Services Directive of 2009 granted BP further powers to supervise the conduct of payment services providers (credit institutions, payment institutions, and e-money institutions).

The examples in Peru and Portugal both show that the scope and coverage of financial consumer protection supervision can and should expand over time to include new providers and products, in order to ensure comprehensive and harmonized oversight.

implemented in practice.⁹ The overlapping nature of the powers of the SBS and INDECOP, and the lack of clarity regarding the division of responsibilities between these two entities, poses a potential cause of confusion for the market.

Statutory objectives and responsibilities

The statutory objectives and responsibilities of a new FCPSD should also be clearly defined. Stated objectives and responsibilities were found to vary significantly across case study countries in both content and language, making comparisons difficult. However, there are some similarities and lessons that can be drawn. Financial consumer protection objectives should be tailored to country context, taking into consideration such factors as consumer protection priorities in the market, the legal mandate of the financial regulator, what financial consumer protection activities are currently being undertaken by other agencies, and what activities are missing. The practical approach recommended by several supervisors is to establish relatively broad statutory objectives and responsibilities from the start, but be flexible in implementation priorities.

Interestingly, the majority of consumer protection departments were found to do more than just supervision, and their statutory objectives reflect this fact. Many handle consumer complaints as well as financial education and literacy efforts,¹⁰ particularly where such activities are not being undertaken by other public sector bodies. Supervision was frequently combined with complaints handling due to the fact that complaints can serve as a tool for offsite supervision and market monitoring, helping to target supervision efforts and identify problem areas with respect to consumer protection. Some departments also play a role in rule-making and enforcement, either directly or

indirectly. The statutory objectives of the CPMCD in Armenia, the GPU in Peru, and the BCSD in Portugal as described by supervisors in each respective country are listed in Table 4.

The array of possible statutory objectives and responsibilities that may be tasked to a new FCPSD is illustrated in Figure 1, ranging from core supervisory activities to broader financial consumer protection activities.

Developing initial agenda and determining priorities

When undertaking actual operations, practical realities necessitate that FCPSDs develop an initial risk-based agenda that determines immediate priorities and leverages resources for optimum impact. As noted previously, it is beneficial for FCPSDs to be established with comprehensive regulatory powers and relatively broad statutory objectives in order to provide the new department with the flexibility to address a wide range of consumer protection issues, both current issues as well as those that may arise in the future, through various means. However,

⁹ For further details, see World Bank, 2013, “Peru: Diagnostic Review of Consumer Protection and Financial Literacy,” <http://responsiblefinance.worldbank.org/~media/GIAWB/FL/Documents/Diagnostic-Reviews/Peru-CPFL-DiagReview-ENG-FINAL.pdf>.

¹⁰ Findings of the WB Global Survey on Financial Consumer Protection showed that financial supervisors in 71 percent of economies (out of a total of 114) were involved in financial education activities. The activities mostly involved improving public awareness as well as developing training materials and providing training on a broad range of financial topics. See <http://responsiblefinance.worldbank.org/~media/GIAWB/FL/Documents/Publications/Global-Consumer-Protection-and-Financial-Literacy-results-brief.ashx>. It is worth noting that the financial education and literacy responsibilities initially tasked to the CPD in the Czech Republic and the CPD in Ireland were later moved to other departments or agencies.

TABLE 4: STATUTORY OBJECTIVES OF FCPSDS IN ARMENIA, PERU, AND PORTUGAL^a

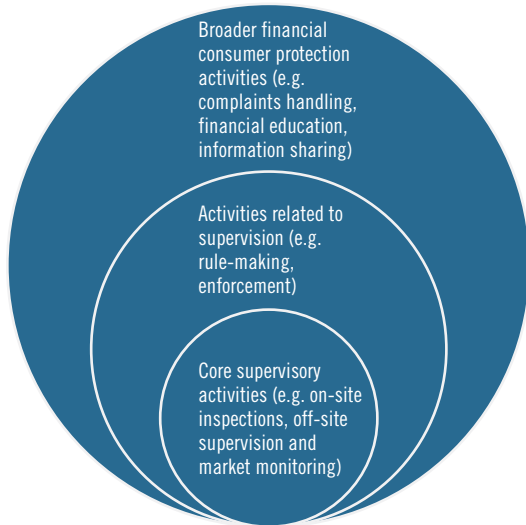
STATUTORY OBJECTIVES OF CPMCD IN ARMENIA	STATUTORY OBJECTIVES OF GPU IN PERU	STATUTORY OBJECTIVES OF BCSD IN PORTUGAL ^b
(1) Supervision of market conduct and complaints handling ^c	(1) Consumer protection (market conduct supervision and establishment of transparency policies)	(1) Regulation and supervision of conduct of credit institutions in their relationship with customers as regards selling practices and disclosure of information on retail banking products and services
(2) Designing policy and legal framework on market conduct	(2) User orientation (i.e. complaints handling)	(2) Strengthening rules of conduct and transparency to be complied with by credit institutions
(3) Designing policy on financial education	(3) Financial education and inclusion	(3) Promotion of financial literacy
(4) Development of institutions necessary for effective consumer protection		(4) Implementing initiatives regarding the supply of information to bank customers

^a See Annex A for the statutory objectives in the Czech Republic and Ireland.

^b In addition, the BCSD manages the complaints of and answers information requests from banking clients.

^c Those complaints not under the authority of the Financial System Mediator, a financial ombudsman that addresses consumer complaints in Armenia.

FIGURE 1: RANGE OF POSSIBLE STATUTORY OBJECTIVES AND RESPONSIBILITIES



the majority of countries included in this report indicated that they faced low supervision capacities, limited resources, and a general underestimation of the topic of financial consumer protection, which requires prioritizing the use of resources.

While a FCPSD's oversight powers may cover a broad range of financial institutions, it may be wise to focus supervisory attention on certain types of institutions or particularly problematic products or services provided across institutions. In Portugal, an initial risk assessment was conducted to determine which

products and markets posed the greatest consumer protection concerns (see further details in Case Study 3). In Ireland, lighter levels of supervision (such as reactive supervision and thematic assessments) are utilized for firms that are deemed low impact for both financial stability and consumers. In-depth themed conduct inspections are utilized by the CPD in Ireland to focus supervisory attention on a particular product or service (e.g. payment protection insurance sales quality) provided across all retail financial firms.¹¹

Statutory objectives and related activities can be similarly prioritized. A newly established FCPSD does not need to utilize its full breadth of regulatory powers or attempt to address all statutory objectives at once. Supervisors interviewed for this report strongly recommended starting small-scale and expanding strategically over time. Again, a risk-based assessment should be undertaken to determine initial priorities. In Portugal, of its four primary statutory objectives, the BCSD initially focused its energies on oversight and supervision, due to the fact that a number of important consumer protection laws had already been issued and needed to be enforced. By contrast, the CPMCD in Armenia began by focusing most of its resources on financial literacy, followed by supervision. It plans to expand to regulatory activities in 2014.

¹¹ Note that conducting financial consumer protection supervisory activities by type of product or service (rather than strictly by type of institution) helps to provide a level playing field and more comprehensive protection to consumers.

Case Study 3: Portugal—Developing an Initial Agenda

In Portugal, the conscious strategy of the BCSD was to pursue a gradual approach with clearly defined priorities. Before the department was established, an assessment was conducted examining what the main consumer protection-related issues were from both the consumer side as well as the supplier side. Risk-weighting was used to determine specific areas on which to first focus, as it was deemed impossible for the new department to undertake all activities at once. Based on the risk-weighted evaluation, the BCSD's priority areas were determined to be: advertising, transparency of information in the deposits market, price lists, transparency of information in the mortgage market, and consumer credit. The BCSD's initial agenda therefore focused on these priority areas, beginning with advertisements, then price lists, followed by consumer credit and mortgages. It now also undertakes the development of codes of conduct.

Finally, FCPSDs may wish to prioritize particular consumer protection-related issues or themes. Many countries chose to initially focus on transparency with respect to particular financial institutions, products, or delivery channels. In the first year of operations of the GPU in Peru, the priority was on supervision of transparency and disclosure of information by banks, because there was insufficient staff to supervise all financial institutions and transparency and disclosure of information was a new topic for supervision in the SBS.

IV. ORGANIZATIONAL STRUCTURE

Stand-alone department vs. internal division

Among case study countries, FCPSDs were placed within the organizational structure of the financial regulator as either: (1) a stand-alone department, or (2) an internal division within an existing department. There are pros and cons to either approach.

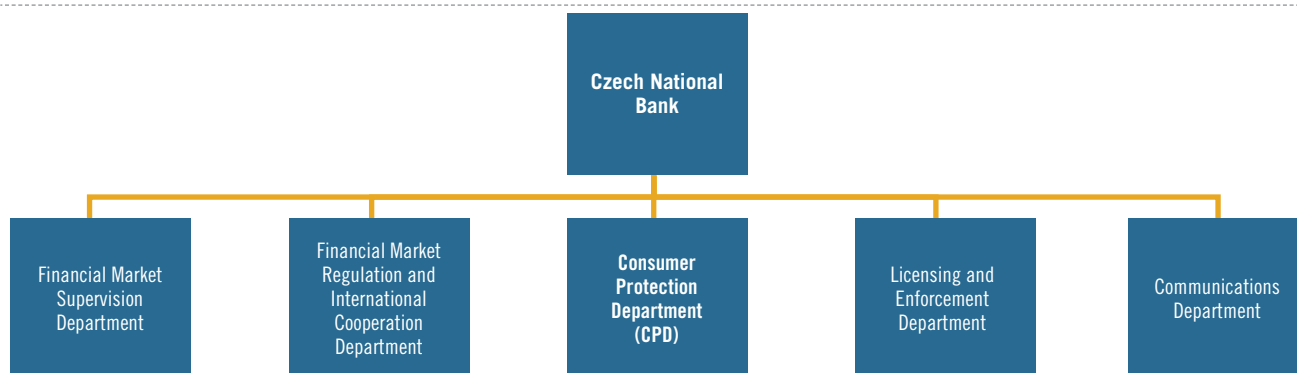
Operating as a stand-alone department provides the benefits of independence and typically comes with greater levels of resources and authority. The CPD in the Czech Republic was created as a stand-alone department from the start. The CPD in Ireland and the GPU in Peru now operate as stand-alone departments within their respective financial regulators, though both began as divisions within existing departments.

However, though a stand-alone FCPSD should be the ultimate objective, it may not always be the most appropriate approach to

begin with. In Armenia, the CPMCD was initially established as a division within the Financial System Stability and Development Department. CPMCD supervisors noted that when the division was started, no one knew the precise number of staff or resources the new division would require nor how its workload and range of activities would evolve over time. Therefore, beginning as a small division within a larger department made the most sense and was easier to launch from an operational perspective. This arrangement provided practical benefits, as the division was able to develop itself gradually over time while housed within another department. Now firmly established, the CPMCD is expected to transition to a stand-alone department in 2014. This type of evolution from internal division to stand-alone department also occurred in Peru and Portugal (see Case Study 4).

Supervisors in Armenia, Peru, and Portugal all noted that if beginning financial consumer protection supervision as an internal division within a larger department, a few important items should be kept in mind: (1) the division should preferably not be placed within the prudential supervision department (discussed further in the following section), (2) the division should operate with some level of independence, and (3) there should be a plan for the division to become a stand-alone department down the road. For example, despite the organizational hierarchy of the CPMCD and the fact that it reports to the head of the Financial Stability and Development Department, the CPMCD operates quite independently from the department in which it is housed, partly aided by the fact that the division has a clear mandate and set of statutory responsibilities.

FIGURE 2: PLACEMENT OF CPD WITHIN THE CZECH NATIONAL BANK^a



^a Note that the organizational charts in Figures 2 and 3 are incomplete and only designed to show those departments within the financial regulator whose work relates to the work of the FCPSD.

FIGURE 3: PLACEMENT OF CPMCD WITHIN THE CENTRAL BANK OF ARMENIA



Separation from prudential supervision

There must be a clear separation between consumer protection supervision and prudential supervision. All financial consumer protection supervisors emphasized this critical point. It can

be challenging to coordinate the objectives of both financial stability and consumer protection, and a conflict of interest may initially be perceived. For example, if the consequences of sanctioning a financial institution for non-compliance with consumer protection provisions would have an impact on

Case Study 4: Portugal and Peru—Evolution of Organizational Structure

In Portugal and Peru, financial consumer protection supervision began as a division within a larger department, but with the goal firmly established from the start to ultimately become a stand-alone department.

In Portugal, the Banking Conduct Supervision unit was first created within the Banking Supervision Department in 2007. BCSU supervisors noted that it was not practical to start a new department from scratch and made more operational sense to begin within an existing department. However, the long-term plan from the very start was for the unit to become a separate, independent department down the road. It was important that the unit had a clear, specific assignment and set of responsibilities separate from prudential supervision. In addition, the deputy director of the Banking Conduct Supervision unit reported directly to the Vice Governor of the Banco de Portugal, bypassing the director of the Banking Supervision Department and providing the unit with a degree of independence. The unit became an autonomous, stand-alone department in 2011 when the Supervision Department was split into Prudential Supervision and Banking Conduct Supervision.

In Peru, the GPU was created in 2005 as an internal division within a broader unit, although this placement was only temporary. The GPU was moved to the same hierarchical level as a deputy superintendency the following year. However, the GPU was legally structured as a “unit” and not a deputy superintendency, and therefore lacked the legal protections provided to deputy superintendencies within the SBS. The GPU is anticipated to become a formal deputy superintendency with the same organizational level and legal protections as other deputy superintendencies beginning in January 2014.

the soundness (or perception of soundness) of a financial institution, or if a requirement for a financial institution to compensate customers would have an impact on prudential requirements, supervisors may choose to disregard consumer protection issues in order to minimize negative prudential impact. Therefore, new FCPSDs should attempt to maintain as much separation and independence from the prudential supervision department as possible, while still coordinating with the prudential supervision department as necessary.

Separation can be achieved through various methods. Obviously, being structured as a stand-alone department is helpful. In addition, financial consumer protection supervisors in case study countries noted that the FCPSD must have the same level of hierarchical authority as prudential supervision, otherwise the FCPSD will be dominated by prudential supervision. One of the main obstacles initially faced by the GPU in Peru was its relationship with the prudential supervision department. Difficulties arose due to the fact that transparency was a new topic for the SBS requiring very different inspection methodologies, and existing supervisory teams considered transparency objectives secondary to prudential objectives. Time and effort was required for both supervisory groups to learn how to coordinate and develop supervisory activities as a team. Financial consumer protection supervisors in Peru noted that these obstacles could have been partly mitigated if the GPU had the same level of authority as prudential supervision.

Another helpful strategy mentioned by numerous supervisors is to ensure that the new FCPSD reports to a different board member than the prudential supervision department, or to the highest level authority within the financial regulator. In the Czech Republic and Portugal, the CPD and the BCSD both report to a different board member than the prudential supervision department. In Peru, the GPU reports to the Superintendent of the SBS. These structural arrangements can help to reinforce the department's independence. Any conflicts of interest that may arise on occasion can then be handled at the board management level.

Coordination with other departments

Coordination with other departments within the financial regulator will be necessary. Supervisors in case study countries noted that coordination was mandatory and used as an

explicit strategy to leverage resources to overcome capacity constraints. The amount and type of coordination will differ by country, depending on how the financial regulator is structured, what activities a FCPSD is undertaking, and how these activities relate to other departments.

FCPSDs will need to strike a careful balance between maintaining separation from prudential supervision while still coordinating supervisory activities. The extent of coordination required will depend significantly on whether on-site inspections are conducted jointly or independently. In the Czech Republic and Peru, where on-site inspections are conducted jointly by prudential supervision and CPD and GPU staff (respectively), the two supervisory departments work closely to coordinate inspections and share information. In Ireland, the CPD maintains close working relationships with prudential supervision directorates for credit institutions, insurance, and investment firms and funds.

FCPSDs also coordinate with other departments within the financial regulator, in particular the departments for legal/enforcement, risk, markets, and communications. For example, the CPD in Ireland works side-by-side with the Markets division, the Policy and Risk division, and the Enforcement division. In Armenia, the CPMCD maintains a working relationship with the Legal Department since it is the department responsible for carrying out sanctions proceedings proposed by the CPMCD. In Peru, the GPU works with the legal department on a range of activities, including analyzing the application of laws and regulations, approving contract clauses of financial institutions, and drafting regulation for financial consumer protection.

V. STAFFING AND INTERNAL STRUCTURE

Staffing

Given that financial consumer protection supervision may represent a new area with evolving activities, supervisors noted it is beneficial to have staff that can draw from experiences from a wide variety of sectors and backgrounds. Recruitment and training of staff to develop the appropriate skillset for financial consumer protection supervision can be challenging and was noted as one of the major obstacles faced by new FCPSDs.

The new department will require staff with a variety of skills that match the statutory responsibilities of the department. Frequently required skills include research and analysis, economics, legal, and communications. Familiarity across the range of relevant products and services offered in the financial sector is also useful. In Peru, the supervision department of the GPU is comprised of a mix of lawyers, economists, engineers, and accountants. In Ireland, CPD staff include financial services professionals, compliance and regulation professionals, lawyers, accountants, and financial analysts.

Somewhat surprisingly, supervisors interviewed for this report noted that prior supervisory experience may be useful, but is by no means mandatory. This is due to the fact that financial consumer protection supervision differs substantially from prudential supervision in content and methodology. Prudential supervision focuses more on quantitative skills and analysis of an institution’s financial soundness, whereas financial consumer protection supervision focuses more on qualitative skills and assessment of how an institution deals with consumers. In Armenia, none of the initial staff in the CPMCD came in with prior supervisory experience. Instead, individuals with a good, basic skillset in finance and economics were hired and then trained and developed in-house. The BCSD in Portugal followed a similar approach, with staff essentially learning by doing and gaining necessary skills in financial consumer protection supervision by practice. However, supervisors in Peru did note that there is a practical benefit to having staff with supervisory backgrounds. Such staff have supervisory experience, already know the players in the industry, can “speak the same language” as prudential supervisors, and have connections in the prudential supervision department—all beneficial for cross-department communication and coordination. Regardless of the skillsets of incoming staff, all supervisors noted that there is no short cut to training internally and learning by doing, particularly since staff sizes will likely start small and FCPSD staff will be faced with ever increasing responsibilities as departments expand their activities.

Staff sizes in case study countries were found to be highly variable, ranging from 6 to 85 staff members (see Table 5).

The size of FCPSD staff will obviously be dictated by a number of different variables, including the size and complexity of the financial sector and number of regulated institutions, the amount of available resources, the FCPSD’s range of activities and scope of coverage, and the extent to which a risk-based approach is taken. Notably, those departments with larger staff sizes (such as Ireland, Peru, and Portugal) all included financial education and literacy as one of their primary activities.

Most FCPSDs began with a small number of staff and grew gradually as departments proved the relevance and importance of their activities. For example, the GPU in Peru started in 2005 with 5 staff members and now counts 85 staff members. The CPMCD in Armenia began in 2007 with 4 employees, currently has 6 employees, and anticipates expanding to 12 employees in 2014. The CPD in the Czech Republic began with 9 employees, consisting of the department director, a secretary, and 7 regional inspectors.

The wide range of observed staff sizes suggests that, while a larger staff is obviously preferable in order to carry out a greater number of activities, it is possible to operate a FCPSD with a small staff. Smaller staff sizes will require that a FCPSD make careful and strategic choices regarding the scope of its activities, its operational structure, and its supervisory arrangements. As previously noted, many FCPSDs started with a narrowly prescribed set of priority activities. Departments may also need to be flexible in terms of staffing arrangements. The CPMCD in Armenia uses a number of temporary workers and outsources work on particular, discrete projects. The GPU in Peru also hired temporary workers to staff call centers during periods when there was increased demand for information, such as during recent pension fund reforms. Finally, FCPSDs with smaller numbers of staff will need to leverage other departments within the financial regulator to a greater degree.

TABLE 5: STAFF SIZE OF FCPSDS

CPMCD IN ARMENIA	CPD IN CZECH REPUBLIC	CPD IN IRELAND	GPU IN PERU	BCSD IN PORTUGAL
6 full-time permanent employees (15 staff if including temporary workers)	16 employees	85 full-time-equivalents	85 staff	75+ staff

In terms of recruiting and hiring, staff were obtained primarily through external hires and to a lesser extent through internal transfers from other departments within the financial regulator.

In the Czech Republic and Portugal, most staff were initially obtained through external hiring, perhaps due to the variety of desired skillsets noted above, as well as possible constraints to internal mobility or a lack of interest within the financial regulator. Only recently have more staff begun to come from other departments within the CNB or BP (respectively). In Peru, the hiring process for the GPU varied depending on the profile of the staff member. Engineers, accountants, and economists were typically transferred from other SBS departments (including prudential supervision) or selected from graduate programs, while lawyers were hired externally. New staff were also obtained from INDECOPI. Looking to any existing consumer protection-related entities as a potential source for new staff is recommended.

Internal organization

Typically, FCPSDs are internally organized either: (1) by function, or (2) by institution or product.

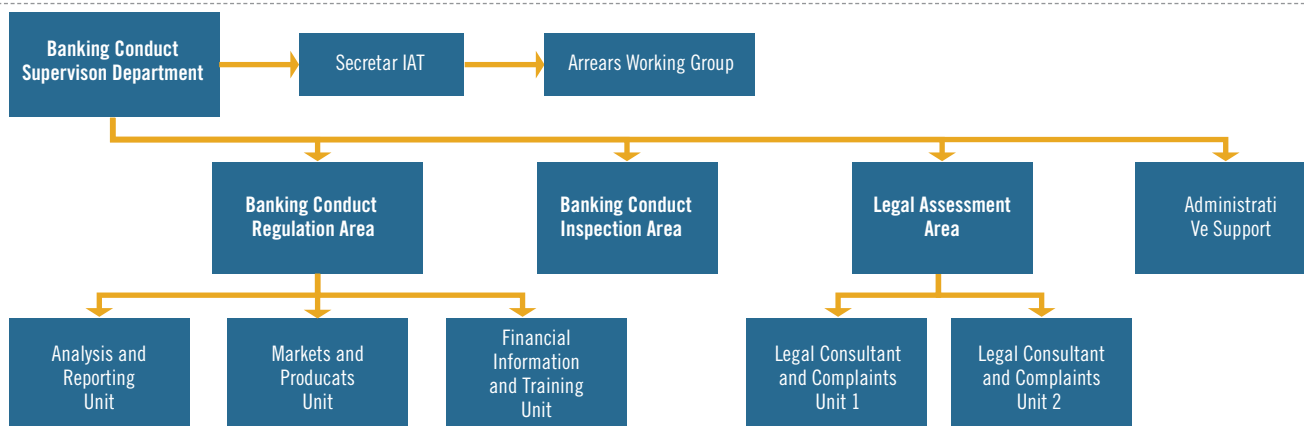
Organizing staff by function allows for staff members to focus to a greater degree and specialize in their particular activities. In the Czech Republic, the CPD is internally organized by function. The department is divided into two small units: one unit for off-

site supervision and complaints handling and another unit for on-site inspections. The first unit is bigger because its main activity is to handle consumer complaints, which are a primary input into supervisory activities. The on-site inspection unit is smaller, consisting of three inspectors and two additional staff for legal and methodological support, for a total of five people in the unit.

In Portugal, staff are also organized by function. The BCSD's staff are split equally between three main areas: (1) the Banking Conduct Regulation Area, which is responsible for market monitoring activities, participation in the preparation of regulatory initiatives, and conducting financial literacy initiatives; (2) the Banking Conduct Inspection Area, which conducts all inspection activities; and (3) the Legal Assessment Area, which is responsible for complaints handling and providing legal assessment of the department's activities. Given that regulation and supervision activities require specialized skillsets, differentiation of such roles within a FCPSD is recommended.

By contrast, the CPD in Ireland is internally organized by product. The CPD includes two divisions: the (1) Banking, Insurance, Investments & Policy division, and (2) the Retail Intermediaries & Payment Institutions division. Staff members are assigned to specific sectors, such as credit institutions, insurance companies, investment firms, or retail intermediaries.

FIGURE 4: INTERNAL ORGANIZATION OF BCSD IN PORTUGAL



In most case study countries, FCPSD staff are centrally located in the headquarters of the financial regulator. The exceptions are the Czech Republic and Peru. In the past, the seven regional branches of the CNB were bigger and responsible for a number of tasks. When the CPD was created in 2008, it therefore seemed logical to place a consumer protection inspector within each of these seven regional branches. However, due to this structure, inspectors were often pulled away and used for other purposes not related to consumer protection. As a result, the inspector positions were centralized in headquarters in 2013 in order to allow for more effective, coordinated, and consistent consumer protection supervision activities. In Peru, the GPU has two regional offices in Arequipa and Piura, though their activities are limited to complaints handling.

VI. SUPERVISORY TOOLS

This section briefly discusses some of the supervisory tools and approaches used by FCPSDs. It does not intend to provide a complete summary of all supervisory activities or analyze best practices in consumer protection supervision.¹² Rather, the focus of this section is on providing a high-level summary of supervisory tools used by FCPSDs in case study countries, how tools are adapted for the needs of financial consumer protection supervision, and strategies for effectively utilizing such tools in the face of capacity constraints.

FCPSDs engage in on-site inspections, off-site supervision, and market monitoring in their supervisory activities. Some departments also play a role, either directly or indirectly, in

rule-making and enforcement. The extent of engagement in each of these areas and the precise activities undertaken varies substantially by country.

The GPU in Peru describes its supervisory activities as follows:

- On-site inspections:
 - General on-site inspections
 - Branch compliance assessments
 - Mystery shopping
- Off-site supervision and market monitoring:
 - Fees and charges evaluation
 - Contracts clauses approval
 - Reports and indicators on complaint statistics review
 - Complaints and accusations regarding financial products
 - Monitoring of websites of financial institutions

Similarly, the BCSD in Portugal carries out a range of on-site inspections, mystery shopping, off-site supervision, and market monitoring activities (see Figure 5). The BCSD also issues recommendations to correct non-compliance and directly issues rules on market conduct. In terms of broader activities not directly related to supervision, the BCSD handles complaints, provides product information to consumers, and develops financial education plans.

¹² For more detailed information on financial consumer protection supervision strategies, see Dias, Denise. 2013. "Implementing Consumer Protection in Emerging Markets and Developing Economies: A Technical Guide for Bank Supervisors." Washington, D.C.: CGAP, August.

FIGURE 5: SUPERVISORY INSPECTION ACTIVITIES OF THE BCSD IN PORTUGAL

		OFF-SITE MONITORING	MYSTERY SHOPPING	ON-SITE EXAMINATIONS
SELECTION AND DECISION-MAKING STAGES	PRE-CONTRACTUAL	<ul style="list-style-type: none"> • Internet sites • Price lists • Standardized Information Sheet (SIS) 	<ul style="list-style-type: none"> • Price lists • Std. information sheets • Business practices 	<ul style="list-style-type: none"> • Std. information sheets • Business practices
	CONTRACTUAL	<ul style="list-style-type: none"> • Draft contracts • Signed contracts 	<ul style="list-style-type: none"> • Draft contracts 	<ul style="list-style-type: none"> • Draft contracts • Signed contracts
	DURING THE CONTRACT	Information provided during the life of the contract	N.A.	<ul style="list-style-type: none"> • Information provided during the life of the contract • IT systems and procedures
	INFORMATION DISCLOSURE	Transparent and accurate information provided to consumers by institutions when promoting and selling their products and services allowing for an adequate assessment of the respective costs, returns and risks		

Besides differences in the types of on-site inspections, off-site supervision, and marketing monitoring activities undertaken, FCPSDs also differed in the way supervisory tools were employed.

For example, the CPD in the Czech Republic noted that it carries out consumer protection supervision primarily in a reactive manner, acting mainly on the basis of consumer complaints. This strategy may be most appropriate for FCPSDs starting with small staff sizes and limited resources. By contrast, the CPD in Ireland appears to follow a more systematic approach, utilizing risk-based analysis to determine what types of supervisory tools and what level of supervision should be applied to particular institutions and/or particular products.

On-site inspections

On-site inspections can be conducted either: (1) independently by FCPSD staff (e.g. Ireland, Portugal), (2) jointly with both FCPSD and prudential supervision staff (e.g. Czech Republic, and Peru), or (3) primarily by prudential supervision staff with occasional participation by FCPSD staff (e.g. Armenia).

While it is arguably preferable to conduct on-site inspections independently, this approach may not be feasible in all countries given limited resources. Leveraging existing supervisory resources may be the most practical approach for low-capacity FCPSDs just starting operations. In such a situation, the FCPSD can work to ensure that inspections are carried out appropriately. For example, market conduct supervision functions are carried out primarily by prudential supervisors in Armenia, but on the basis of detailed market conduct manuals developed by the CPMCD and with occasional participation by CPMCD staff when resources allow. In the Czech Republic and Peru, on-site inspections are conducted jointly by prudential supervision staff and FCPSD staff. Technically, the GPU can conduct its own ad hoc inspections, but must coordinate with prudential supervision staff as prudential supervision staff serve as the main contact within the SBS for financial institutions. The GPU in Peru also conducts Branch Compliance Assessments, on-site inspections in a financial institution's various branches around the country to verify compliance with SBS regulations on disclosure and customer service.

Where on-site inspections are carried out jointly with prudential supervision staff, there will be a greater need for close coordination as well as a means for addressing potential

conflicts in inspection results. In Armenia, after inspections are completed, staff from both the CPMCD and prudential supervision come together to discuss results and come to a consensus on any violations. Though not typical, conflicts of interest can arise on occasion, most often when issues regarding transparency are not deemed to be “essential” violations worthy of punishment by all supervisory staff. Such disagreements must be worked out by both teams (the head of the prudential supervision department confirms inspection results from a procedural standpoint). The GPU in Peru is responsible for its own chapter on consumer protection recommendations in the final inspection report. Any conflicts with prudential supervision on recommendations must be worked out to come to a final institutional position.

Case study countries also differ in how they go about selecting institutions for on-site inspection. In Armenia, all financial institutions subject to holistic on-site inspection for prudential supervision are included for market conduct supervision. On-site inspections for market conduct therefore occur for every institution once every three years, in accordance with the holistic on-site inspection schedule (ad hoc on-site inspections occur upon need). By contrast, the CPD in the Czech Republic sets its own schedule for on-site inspections, selecting institutions on the basis of consumer complaints and market monitoring. Similarly, the GPU in Peru determines for which inspections GPU staff will join prudential supervision staff (who conduct general on-site inspections for every entity supervised by the SBS once a year). The GPU is currently working on developing a risk-based assessment system to focus its inspection activities.

Conducting on-site inspections on such a targeted basis would seem to be the most effective use of a FCPSD's resources. The CPD in Ireland, which carries out its own on-site inspections, appears to follow the most systematic approach in prioritizing supervisory activities. A program of themed inspections is developed every year by the CBI, with themes selected based on sources such as research, market intelligence, referrals from the Financial Services Ombudsman, issues uncovered at other inspections, and whistleblowers. For 2013, the program of themed inspections included:

- Code of conduct on mortgage arrears
- Sales incentives in the banking, insurance, investment and stockbroking sectors

- Provision of information to consumers by investment and stockbroking firms
- Property insurance claims handling
- Retail intermediaries (insurance, investment and mortgage intermediaries) compliance with financial position requirements, professional indemnity insurance requirements, and sale of pension policies
- Moneylenders

In Portugal, where the BCSD also conducts independent on-site inspections, institutions and issues to be the subject of inspections are selected according to recent developments in the legal and regulatory framework and information obtained from the complaints handling process. On-site inspections for market conduct occur several times a year.

No standard method or approach was found with respect to the development of supervision manuals. In fact, most supervisors reported that supervision manuals were developed as they went, since financial consumer protection supervisors were starting from scratch with supervisory activities that differed greatly from prudential supervision. While prudential supervision manuals are typically designed with the type of institution in mind, designing financial consumer protection supervision manuals may require a more functional approach. In Portugal, supervisors noted that long, detailed, and rigidly defined supervision manuals are not helpful given that consumer protection regulations and rules change frequently. Though guidelines exist, in practice supervisory procedures are carried out primarily based on extensive experience developed by supervisory staff, reinforcing the importance of proper training.

However, if on-site inspections are primarily conducted by prudential supervisors, there is a greater need for detailed supervision manuals to ensure that financial consumer protection supervisory activities are conducted appropriately and consistently. During the first few months of operation, the CPMCD team in Armenia reviewed existing regulation on topics such as transparency and complaints handling, brainstormed regarding a supervisory framework/diagnostic matrix, and then developed supervision guidelines around the framework.

FCPSDs in the Czech Republic, Ireland, and Peru note that they conduct mystery shopping from time to time. The BCSD in Portugal appears to carry out mystery shopping to the greatest

extent among case study countries, sending out teams of at least two individuals to a region to test business practices and analyze pre-contractual information provided to consumers at institutions throughout that particular region.

Off-site supervision and market monitoring

A systematic, risk-based program of regular off-site supervision and market monitoring can be an effective approach in terms of impact and use of resources. As opposed to on-site inspections, off-site supervision and market monitoring is primarily dictated by FCPSD staff. Particularly where FCPSDs face capacity constraints, these tools can be helpful to focus supervisory attention on priority concerns and serve to prevent consumer issues from arising. Many supervisors indicated that they wish to increase the amount of off-site supervision and market monitoring being conducted by their departments.

Off-site supervision can include monitoring of provider websites and advertising, analysis of data reported by financial institutions, and review of complaints by consumers and complaints statistics, particularly where complaints handling is directly conducted by the FCPSD. The CPD in Ireland reports that its off-site supervision may include the following activities:

- Desk-based surveys
- Follow-up on issues identified during on-site inspections
- Conduct of business returns from regulated institutions
- Proactive and reactive supervision e.g. monitoring changes/withdrawal/breakdown of services, changes in strategy, business model etc.
- Monitoring of advertising
- Social media mining

The CPMCD in Armenia reports undertaking the following off-site supervision activities:

- Monitoring of content of websites of financial service providers
- Monitoring of advertising by financial service providers, including TV advertisements
- Monitoring and analysis of published information, including annual reports, financial statements, and other documents published by financial institution

- Testing and verifying of disclosure and advertising materials made publicly available by financial institutions
- Specific on-demand supervision actions (e.g. monitoring of radio advertising during launch of motor third party liability insurance, supervisory actions based on received complaints or media coverage, etc.)

FCPSDs in Armenia, Ireland, Peru, and Portugal all report conducting off-site supervision activities on both a regular on-going basis as well as an ad hoc basis. The GPU in Peru noted that, because on-site supervision only occurs occasionally, much focus is placed on off-site supervision, which is conducted on an ongoing basis for all institutions. In Portugal, off-site supervision activities such as monitoring price lists and advertisements occur on a regular, continuous basis, whereas other activities may occur on an ad hoc basis as a result of a particular market development or issue arising from the complaints handling process. In Armenia, off-site supervision is conducted with regular frequency: monitoring of TV commercials occurs on a monthly basis, monitoring of websites occurs on a quarterly basis, and monitoring of compliance with regulations occurs on an annual basis. By contrast, the CPD in the Czech Republic reports undertaking off-site supervision on primarily a reactionary basis, with occasional monitoring of websites and advertising.

Unlike with off-site supervision, supervisors in all case study countries except Ireland indicated that market monitoring activities such as analyzing complaints statistics and media marketing from a broader market or sector-level perspective or consulting with industry were not conducted extensively or systematically. The CPD in Ireland conducts market intelligence and research activities with the intent to pre-emptively identify potential market conduct risks.¹³ Supervisors in other case study countries noted that they wished to increase efforts in this area.

Enforcement

FCPSDs are typically able to issue warnings, recommendations, or voluntary corrective actions. In some cases these actions must be coordinated with prudential supervision, while in other cases the FCPSD can make such decisions independently. Formal enforcement measures, administrative proceedings,

and the issuance of penalties and fines are carried out by the legal/sanctions department of the financial regulator.

The CPMCD in Armenia can request corrective actions and make recommendations. These items are communicated to the financial institution via the staff member within the prudential supervision department designated as the main contact person within the CBA for that particular institution. Prudential supervision staff (not CPMCD staff) are responsible for following up on compliance with informal measures. The GPU in Peru must also coordinate with the prudential supervision department when requesting corrective measures.

In contrast, the CPD in the Czech Republic (which conducts independent on-site inspections) can request corrective actions and discuss these actions directly with supervised institutions. Similarly, the BCSD in Portugal can issue direct recommendations and specific orders to supervised institutions to correct non-compliant situations or irregularities. For example, the BCSD may issue warnings to financial institutions, require providers refund excess charges, or require the withdrawal of misleading advertisements

Enforcement actions, which are less common than warnings, recommendations, or corrective actions, are under the competence of the legal or sanctions department of the financial regulator. FCPSDs generally appear to play a limited role in these administrative proceedings. Depending on the gravity of the situation, the BCSD in Portugal may propose administrative proceedings to BP's Board of Directors. If the Board approves the proposal, these proceedings are then carried out by the Legal Enforcement Department. The final imposition of fines and penalties is decided by the Board.

Rule-making

The extent to which FCPSDs have direct rule-making authority varies. FCPSDs in Armenia, Ireland, and Portugal all have

¹³ These activities include: data and analysis of returns from regulated firms; monitoring of social media and online sites; commissioning research on certain topics; analyzing trends from internal market intelligence sources; reviewing ombudsman complaints; deriving findings from thematic reviews and advertising monitoring cases; identifying trends arising from engagement with other CBI directorates; and analysis of switching statistics under the Switching Code.

authority to issue consumer protection-related rules or codes of conduct. In Armenia, the CPMCD is responsible for developing and issuing legislation related to consumer protection and market conduct supervision. Any proposals for new regulatory requirements or for updating existing rules are prepared by the CPMCD in close cooperation with the Financial System Regulation Department and the Legal Department. In Ireland, the CPD directly issued various rules regarding codes of conduct.

By contrast, the CPD in the Czech Republic is not empowered to issue legislation in the area of consumer protection.

However, it does issue recommendations, benchmarks and explanations regarding existing consumer protection-related laws and how the legal obligations in such laws will be supervised. The GPU in Peru also lacks the authority for rulemaking, though the GPU does provide recommendations to the legal and regulatory departments within the SBS on issuing or modifying consumer protection-related regulation.

ANNEX A: COMPARATIVE TABLE OF KEY ELEMENTS IN ESTABLISHMENT OF FCPSDS

	ARMENIA	CZECH REPUBLIC	IRELAND	PERU	PORTUGAL
Name and date of establishment	Consumer Protection and Market Conduct Division (CPMCD) established in 2007	Consumer Protection Department (CPD) established in 2008	Consumer Protection Directorate (CPD) (formerly Consumer Protection and Codes Division) established within Irish Financial Services Regulatory Authority (IFSRA) in 2003	Products and User Services Office (Gerencia de Productos y Servicios al Usuario, or GPU) established in 2006	Banking Conduct Supervision Department (BCSD) established in 2008
Statutory objectives of financial consumer protection supervision department	<p>(1) Designing policy and legal framework on market conduct</p> <p>(2) Development of institutions necessary for effective consumer protection</p> <p>(3) Supervision of market conduct and complaints handling</p> <p>(4) Designing policy on financial education</p>	<p>(1) To protect consumers in financial market against unfair commercial practices</p> <p>(2) To check fulfillment of providers obligations to act with professional care and avoid misleading and aggressive practices</p> <p>(3) To check fulfillment of obligations concerning distance marketing in financial services, granting and intermediation of consumer credits, and information obligation under Payments Services Directive</p>	<p>A financial services industry where consumers' interests are protected, meaning that:</p> <p>(1) Consumers should be provided with clear, relevant, and accurate information, including on cost, during the sales process;</p> <p>(2) Consumers should be recommended a product/service appropriate to their needs and suitable to them; and</p> <p>(3) Consumers should receive a high standard of follow-up services, e.g., making a claim, making a complaint, switching product, dealing with errors, policy renewals, follow-up advice on investments/pensions, etc.^a</p>	<p>(1) Consumer protection (market conduct supervision and establishment of transparency policies)</p> <p>(2) User orientation</p> <p>(3) Financial education and inclusion</p>	<p>(1) Regulation and supervision of conduct of credit institutions' selling practices and disclosure of information to customers</p> <p>(2) Strengthening rules of conduct and transparency for credit institutions</p> <p>(3) Implementing initiatives regarding supply of information to bank customers</p> <p>(4) Promotion of financial literacy</p>
Coverage	Retail products provided by all financial institutions (banking, microcredit, insurance, payments, investment companies)	Banks, credit unions, payment institutions, insurance intermediaries, investment firms (excludes non-bank consumer credit providers and mortgage intermediaries)	Financial products and services provided by retail credit firms, retail intermediaries (insurance, investment, mortgage), payment institutions, debt management firms, credit institutions, insurance companies, investment and stockbroking firms, and moneylenders	Banks, microfinance institutions, insurance companies, and private pension funds (excludes savings and credit cooperatives and capital markets)	Retail banking products and services (credits, deposits, and payment services)

(continued on next page)

ANNEX A: COMPARATIVE TABLE OF KEY ELEMENTS IN ESTABLISHMENT OF FCPSDS *(continued)*

	ARMENIA	CZECH REPUBLIC	IRELAND	PERU	PORTUGAL
Placement within financial regulator and lines of authority	Currently division within Financial System Stability and Development Department reporting to head of department, but will become standalone “center” reporting to Chairman of Central Bank of Armenia in 2014	Standalone department within Czech National Bank (CNB) reporting directly to different Bank Board member than prudential supervision department	Standalone directorate within Central Bank of Ireland (IFSRA incorporated into Central Bank of Ireland in 2010)	Standalone “office” reporting to Superintendent (highest authority) of Superintendency of Banking, Insurance, and Private Pension Funds (SBS)	Initially division housed within supervision department of Banco de Portugal; became standalone department in 2011 and now reports to different board member than prudential supervision department
Internal organization	New center in 2014 will include three teams: (1) regulation, (2) supervision, and (3) financial education	Oct 2013 reorganization into two centralized units: (1) off-site supervision and complaints handling, and (2) on-site inspections (previously organized as seven regional on-site inspectors)	Two divisions: (1) Banking, Insurance, Investments & Policy, and (2) Retail Intermediaries & Payment Institutions	Three main departments: (1) User Services Supervision and Informal Activities Department, (2) Financial Education and Inclusion Department, and (3) User Orientation Platform; two regional offices in Arequipa and Piura	Three main areas: (1) Banking Conduct Regulation Area, (2) Banking Conduct Inspection Area, and (3) Legal Assessment Area
Staffing	6 full-time permanent employees (15 staff if including temporary workers)	16 employees	85 full-time equivalents	85 staff	75+ staff
Initial supervisory priorities	Transparency and product design	Transparency and complaints handling	Consumer information and education, monitoring competition, and developing and enforcing codes of practice	Transparency and disclosure of information by banks and microfinance institutions	Priority areas identified based on risk-weighted evaluation (e.g. advertising, transparency in deposits and mortgage markets, price lists, consumer credit)
On-site inspection	<ul style="list-style-type: none"> Conducted primarily by prudential supervision staff, with occasional participation by CPMCD “Holistic” inspections occur once every three years for every institution; on demand inspections as well 	<ul style="list-style-type: none"> Conducted jointly by prudential supervision and CPD May also be conducted independently by CPD following 2013 reorganization Institutions selected based on complaints data 	<ul style="list-style-type: none"> Conducted independently by CPD Occasionally receives assistance from prudential supervision staff Program of themed inspections every year (e.g. code of conduct on mortgage arrears, sales incentives, property insurance claims handling) 	<ul style="list-style-type: none"> Conducted jointly by prudential supervision staff and GPU Every institution supervised by SBS receives general onsite inspection once a year Branch compliance assessments for transparency 	<ul style="list-style-type: none"> Conducted independently by BCSD Inspection of headquarters with prior notification, branches without prior notification Institutions selected based on complaints info or due to new laws/regulations

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ANNEX A: COMPARATIVE TABLE OF KEY ELEMENTS IN ESTABLISHMENT OF FCPSDS *(continued)*

	ARMENIA	CZECH REPUBLIC	IRELAND	PERU	PORTUGAL
On-site inspection <i>(continued)</i>			<ul style="list-style-type: none"> Themes selected by research, market intelligence, referrals from Financial Services Ombudsman, etc. 		
Supervision manuals	Market Conduct Assessment Matrix and on-site supervision manual developed over 3–6 month period when CPMCD first established	Developed from scratch and consciously separate from prudential supervision; incorporated sample letters on consumer protection issued by other departments	N/A	Inspection procedures developed incrementally by practice	Currently being developed by BCSD staff
Mystery shopping	Conducted on ad hoc basis	N/A	Conducted occasionally	Yes, began in 2012, now conducted in three cities (Lima, Piura, and Arequipa)	Yes, formal mystery shopping inspections conducted by region
Offsite supervision	Includes regular and ad hoc monitoring of websites, TV commercials, and reports of financial institutions	Focus is on reviewing complaints; ad hoc monitoring of websites and advertising	Includes desk-based surveys, follow-up on issues identified during on-site inspections, conduct of business returns, monitoring changes in services and strategy, monitoring advertising, and social media mining	Includes on permanent and ongoing basis: evaluation of fees and charges, approval of contract clauses, review of reports and indicators on complaints statistics, evaluation of complaints and accusations regarding financial products, and monitoring of websites of financial institutions	Includes regular and ad hoc monitoring of websites and advertising and analysis of data reported by institutions (e.g. price lists, contracts)
Market monitoring	Conducted on ad hoc basis	Conducted on ad hoc basis	Includes data collection and analysis of returns; monitoring social media activity; analyzing trends from internal market intelligence courses; reviewing Ombudsman complaints; and identifying trends arising from engaged with other directorates within Central Bank	Conducted on ad hoc basis	Includes analyzing complaints; monitoring advertising, new credit agreements, price lists, etc.; and meetings with stakeholders

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ANNEX A: COMPARATIVE TABLE OF KEY ELEMENTS IN ESTABLISHMENT OF FCPSDS (continued)

	ARMENIA	CZECH REPUBLIC	IRELAND	PERU	PORTUGAL
Enforcement	<ul style="list-style-type: none"> Informal measures such as corrective actions and recommendations discussed and agreed upon with prudential supervisors Formal measures such as penalties and fines enforced by Legal Department 	<ul style="list-style-type: none"> Voluntary corrective actions can be requested by CPD Binding measures and administrative proceedings undertaken by Licensing and Enforcement Department 	Supervisory and enforcement staff work together within model of assertive risk-based supervision ^b	GPU can issue warnings; issuance of sanctions and corrective measures coordinated with prudential supervision department	<ul style="list-style-type: none"> BCSD directly issues recommendations and orders to correct non-compliance or irregularities Administrative proceedings to impose penalties or fines carried out by Legal Enforcement Department
Rulemaking authority	Yes	No	Yes	No	Yes
Legal mandate and date of creation	Amendments in 2007 to Law on Central Bank of Armenia	Act No. 6 of 1993 on Czech National Bank (Section 44a, paragraph 1)	Central Bank and Financial Services Authority of Ireland Act 2003, Central Bank of Ireland Reform Bill 2010	Complementary Law 28587 to Consumer Protection Code on Financial Services Matters	Decree-Law No 1/2008 of 3 January amending Legal Framework of Credit Institutions and Financial Companies

^a Laws on the CBI summarize the CBI's financial consumer protection strategic priorities as 5 C's: (1) Consumer – putting the consumer at the center of the regulatory framework; (2) Culture – striving to ensure a consumer-focused ethos among those the CBI regulates, the CBI, and others; (3) Compliance – ensuring compliance with the rules through effective supervision and credible deterrence and enforcement; (4) Confidence – ensuring confidence in financial services, products, industry and regulation; and (5) Challenge – challenging the CBI, those the CBI regulates, and others to get it right for consumers.

^b For further details, see “Outline of the Administrative Sanctions Procedure” at <http://www.centralbank.ie/regulation/processes/EnfI/asp/Documents/Outline%20of%20the%20Administrative%20Sanction%20Procedure%20-%202013%20-%20for%20publication.pdf>.