30th March 2023

Dear Sir/Madam,

The Compliance Institute ('The Institute') is the professional body for compliance professionals. With over 3,500 members, it is the premier provider of education and professional development in compliance, providing an authoritative and balanced voice on matters relating to regulatory compliance and business ethics in industry in Ireland.

The Institute welcomes the publication by the Central Bank of Ireland ('Central Bank') of the Consumer Protection Code ('CPC') Review Discussion Paper, and the opportunity to provide responses on behalf of its members to the questions set out in the paper. The Institute is well placed to provide informed commentary given its diverse membership that includes compliance professionals from a broad range of sectors subject to different levels of regulation and supervision.

The responses to the Discussion Paper have been collated from a members' survey which the Institute conducted and also reflects the input from a sub-group set up consisting of members of a number of the Institute's Working Groups. It should be noted that the most Institute responses received were from the Payments and E-Money sector and this is reflected in the answers outlined in the Appendix.

The views expressed in this consultation reflect those of the Institute as a professional body.

General Feedback

From a general perspective, members were of the view that it would be worthwhile for the Central Bank to consider guidance or similar relating to the Assisted Decision-Making Regulations, the Consumer Protection impact of same, and how the regulation might be implemented from a financial services perspective. Members also were of the opinion that, where guidance is issued from the Central Bank, where appropriate such guidance should be industry specific.

In addition, given that both the Discussion Paper and the Individual Accountability Framework ('IAF') Bill will have a significant focus on the obligation to act in customers interests, where possible, the language and terminology should be consistent, to avoid confusion on expectations and interpretation of obligations.

More prescriptive guidance relating to defining and acting in consumers' best interests was significantly welcomed by the Institute and in particular guidance on "Best Interests". Furthermore, it would be beneficial if examples of what good outcomes and poor outcomes look like were included in such guidance.

Finally, in order to assist the public in understanding their rights, the Institute feels that a key focus for the Central Bank, perhaps in conjunction with relevant Government Departments, should be educating the public on financial services and consumer rights in order to improve financial literacy. This could be done through, for example, financial educational programmes in schools and colleges as well as other specific programmes for those most vulnerable members of society.

The Institute's responses, based on Members' feedback, to individual questions raised in the Discussion Paper are contained in the Appendix.

Michael Kavanagh

CEO

Compliance Institute

Section 2 - Securing Consumers' Best Interests

Broad Theme A: Availability and Choice - Effective Market Functioning

Q1: What are your views on availability and choice of financial services and products for consumers?

This question received a mixed response from members of the Institute. While it is widely agreed that availability and choice of financial services and products for customers is extremely important, there were concerns expressed regarding how much availability and choice currently exists in the financial services market in Ireland, and where it does exist, both the negative impact this can have (such as confusion for customers), and the practical consequences for a provider of working to have such wide availability and choice. The feedback received from members included a range of topics, including:

- **Availability and Choice**
  In terms of the existence of availability and choice in the market currently, some members were of the view that duopoly has imposed great narrowness in choice, availability, and pricing for consumers (without stating the specific sector), while others felt a lack of availability and choice exists which stems from the Irish market being relatively small in size with recent high-profile withdrawals (in particular KBC and Ulster Bank). In addition, the view was expressed that the withdrawal of a number of licence applications by retail firms (for banking licences and e-money institutions) may speak to issues in bridging gaps between regulatory expectations and firms' maturity and possible deficiencies in engagement with firms during the application process, which is ultimately impacting consumer choice.

- **Transparency and Information**
  Some Members were of the opinion that a more a transparent and informative insight into provision and availability of Financial Services in Ireland is required, citing fragmented information which is not always as it seems and can contradict the reality of what is on offer. Members also highlighted that there are potential differences in terms of what availability means based on consumer cohort characteristics. For example, what is available for some may not be available for all, depending based on the channels available for distribution, familiarity (or otherwise) with technology, or at a basic level consumer awareness of what may actually be available to them.

- **Product Governance and Oversight**
  It was also noted that, given the importance of choice and availability, robust product governance and oversight arrangements are essential The CPC review provides a valuable opportunity for regulatory changes introduced on product governance (such as setting

target markets and ensuring products and/or services meet those target market's needs) in the insurance and Markets in Financial Instruments Directive ('MiFID') sectors, among others, to be implemented across the Financial Services Industry . This can be done through the CPC and these requirements can be set out in a manner through which they can be understood fully by market participants and be monitored by regulatory authorities.

- **Technology and Digitalisation**
  Members pointed out that the financial sector is evolving with rapid technological advances, changing customer preferences, increasing competition from new technology-based market entrants, a necessity to reduce high fixed costs, extensive regulatory and compliance obligations, high capital requirements, the growing importance of funding the transition to the green economy, and a historically low interest rate environment, all of which continue to contribute to a highly complex and evolving sector. From a digitalisation perspective, it is thought that the CPC needs to be updated to reflect the move to greater digitalisation and to better reflect the increased level of non-face-to-face interaction between firms and consumers.

  - Fintech Providers – Certification
    In relation to ensuring ongoing availability of choice in the Irish market, members highlighted that non-bank lending (particularly for small and medium-sized enterprises ('SMEs')) is becoming an increasingly important feature of the Irish (and European) lending landscape, and digitalisation will enhance products across the industry. However, in some cases it will also require regulated firms to partner with Fintech providers and members were of the view that there should be an onus on Fintech providers to ensure familiarity with regulatory requirements. In this regard, it was recommended that there be a licencing, authorisation, or certification regime introduced for fintech providers where they choose to provide services to the Financial Services Industry. Such a regime would not negate the duties of Financial Services Providers to continue to perform the necessary due diligence and oversight on those Fintech Providers. It was also suggested that an upskilling and education piece for the general public on the Fintech industry would be beneficial.

  - Fintech Providers – Operational Resilience
    In addition, the Discussion Paper highlights a need for interdependencies and interconnectedness between regulated firms and Fintech providers which has the potential to give rise to a risk of system operational weaknesses, service outages and cyber vulnerabilities which may impact access to critical services. In this regard members acknowledged that the Central Banks's Operational Resilience Guidelines will assist regulated firms in mapping critical services and the concept of proportionality will be key in terms of implementation, while the Digital Operational Resilience Act ('DORA') and Cyber Security Act will bring additional challenges for firms.

- **Stakeholder Management**
  Members also pointed out that a key challenge for the sector is to run its core functions effectively whilst meeting a diverse set of competing stakeholder needs. For example, financial regulators place a strong emphasis on strength and stability while shareholders tend to focus on sustainable profitability in order for the entity to remain viable and continue to serve their customers.

Q2: How important are new providers and new delivery channels to serving consumers' financial needs?

The consensus from members is that both new providers and new delivery channels are extremely important to serving consumers' financial needs as well as to ensure healthy competition and innovation in the market. Members provided feedback on the potential barriers to new providers and delivery channels, as well as the benefits and risks associated with both, as set out below.

Authorisation process
It was noted by some members that the authorisation process to enter the Irish Market can be quite daunting and complex, and so an improvement in the quality of materials available to explain all aspects of the authorisation process and the expectation of the Regulators in relation to substance and governance would be helpful.

New Market Entrants
Some members noted that, while new market entrants are positive for consumers, this is only the case when those new market entrants are appropriately regulated and members highlighted that there needs to be consistency in approach to new entrants to ensure appropriate protection for consumers and a level playing field for all providers.

New Delivery Channels
Members noted that how new channels operate, and who is involved in their operation, can be unclear or not well understood as teething issues occur, and there should be some level of acceptance of this in the market once consumers are protected.

Some members suggested that new delivery channels, particularly technology-based ones, can have the impact of making some products less relevant, potentially redundant, or more expensive for consumers to own or maintain, or may result in legacy issues causing some cohorts of customers to be disadvantaged by receiving less attention.

Members were also cognisant of the risks associated with new delivery channels as consumers opt for the quickest option available, which can lead to consumers purchasing products they don't fully understand.

Q3: In implementing its consumer protection mandate, how should the Central Bank reflect the importance of competition in its regulatory approach?

Members put forward the following suggestions on how the Central Bank should reflect the importance of competition in its regulatory approach:

- As mentioned above, an equal playing field must be in place to ensure that the standards expected of new market entrants be the same as that for established participants.

- Similarly, the Central Bank should actively encourage new entrants, as well as new products by existing entities. Some members noted that there is a perception by some that, while the Central Bank may acknowledge the importance of competition, equally it may be putting potential new entrants off applying due to concerns surrounding the authorisation process or the potential mismatch between regulatory requirements and operating model requirements. It was noted that competition was specifically removed as a high-level goal of the Central Bank following the market crash. However, some members were of the opinion that the Central Bank should seek to encourage and accommodate competition, while acknowledging that new entrants may present new risks as well as new opportunities. As part of its supervisory mandate, the Central Bank could look to have more regard to the nature, scale, and complexity of a firm when assessing the adequacy of systems and controls.

- The challenges posed by the exit of KBC and Ulster Bank from the Irish market, have highlighted that the Central Bank's Code of Conduct on Switching of Payment Accounts requires review, which is acknowledged in the Discussion Paper, and have also highlighted the need for new entrants into the banking sector in order to improve competition in the sector.
    - Code of Conduct on Switching of Payment Accounts - The existence of historic infrastructure (particularly among retail banks), and practical issues associated with changes to financial arrangements (e.g. changes in Direct Debit mandates) need to be considered when reviewing the Code of Conduct on Switching. The Central Bank and regulated firms will also need to consider the impact of legacy systems on the rollout of the new Instant Payment regime which is imminent.

    - Attracting New Entrants - Members suggested that the Central Bank should consider to what extent the regulatory framework in Ireland encourages or discourages new entrants, and what steps can be taken to encourage new entrants in order to improve competition and a variety of price points and products available to consumers.

    - Members also of the view that the Section 149 approval process is somewhat unique to Ireland and could be characterised as a challenge to ensuring competition, particularly in terms of: (i) changes imposed for services to non-personal consumers; and (ii) for non-Irish lenders who wish to enter the Irish market.

- While it was acknowledged that certain requirements introduced work to improve competition in the market (e.g., provisions regarding mortgage switching set out in the June 2018 CPC Addendum, the operation of the Code of Conduct on the Switching of Payment Accounts with Payment Service Providers, transparency and comparability of fees and charges, and existing obligations on firms to provide consumers with information regarding alternative options), it is the view of some members that some of these initiatives could be developed further in order to encourage new entrants into the market which will in turn increase competition, and the options available to consumers. Some members felt that currently consumers in the banking sector only switch where they feel it's absolutely necessary (for example due to interest rate rises or market exits).

- Some focus by the Central Bank on removing the perception that the Central Bank is wary of innovation was suggested, along with a suggestion that the Central Bank work to further highlight their role as protector of the consumer without making the process of new competition too onerous and lengthy.

- Members were of the opinion that the importance of competition needs to be reflected in the regulatory approach through ensuring there is a common and up to date official CPC, that also adequately reflects relevant Dear CEO Letters that have been issued to the industry. From a competition and transparency perspective, if a regulated firm/new entrant was not operational in Ireland prior to the publication, it may not be aware of the Dear CEO Letter and/or the Central Banks expectations and requirements outlined within the letter.

- In terms of reflecting the impact of competition, the CPC needs to reflect that business models and consumer communication is evolving. As a result, the CPC needs to evolve with these amendments, to reflect increased digital methods of communications (e.g., in-app notifications) and product distribution (e.g. requirements to provide certain information in a 'durable medium' and how this can be achieved with digital methods of communication).

Broad Theme B: Firms Acting in Consumers' Best Interests

Q4: Do you agree that the Central Bank should develop guidance on what it means for a firm to act in the best interests of its customers?

Members agreed that the Central Bank should develop guidance on what it means for a firm to act in the best interests of its customers, albeit following a wide public consultation process on the matter.

Some members referenced the Financial Conduct Authority's ('FCAs') recent Consumer Duty Regulation and suggested that a similar guidance from the Central Bank would be very helpful and in particular, industry specific guidance would be beneficial. In addition, it was suggested that a consolidation of all consumer protection requirements into a Single Rulebook (similar to the FCA's approach) could more greatly assist firms and consumers.

Other members suggested that a revised version of the CPC should include guidance regarding high level customer outcomes for the fair treatment of customers and/or acting in customers' best interests which could be aligned with the customer and product lifecycle without becoming a prescriptive requirement.

It was also suggested that further workshops being held by the Central Bank in order to enhance its culture of guidance would be beneficial.

Q5: Does the suggested outline of 'customer best interest' guidance capture the essence of the obligation to act in customers' best interests? What other guidance would you suggest?

Members were of the opinion that the list of considerations on page 32 of the Discussion Paper are useful. However, some felt it could lead to ambiguity, for example, the balancing act between the interests of shareholders and the interests of customers.

Members provided the following additional feedback for both the best interest guidance, and other suggested guidance:

- Specific considerations – for example, a list of considerations to determine 'customer best interest' when a consumer complaint is filed or considerations relevant to product development;

- Practical extended guidance on areas such as conflict of interest, fairness, and honesty;

- Augmented guidance seeking entities to define and document what their customers best interests are and to be in a position to demonstrate whether, or the degree to which, customers best interests have actually been met over time. This could be included in separate product governance and oversight guidance, perhaps in relation to launching new products initially, before applying to the full product suite.

- The development and implementation of a national financial literacy strategy, equipping consumers with appropriate levels of financial literacy and understanding of financial products; and

- Separate guidance providing a consolidated view of the information requirements.

Section 3 - Specific Discussion Themes
Theme 1: Innovation & Disruption

Q6: Do you agree with the Central Bank proposed approach to enhancing their Innovation Hub?

The majority of respondents were supportive of a review and enhancement of the Innovation Hub ('the Hub'). From the responses of our members, there did appear to be confusion as to the role of the Hub and some feedback received suggested that it's operational mechanism and organisation is required to be better described and transparent for the public. Additionally, one member was of the view that it was being used by firms to determine what is not possible within the regulated environment, rather than as a venue to determine how new business models can adapt to operate within the regulated environment.

A number of the Central Bank' proposals were welcomed by members including:

- Enhanced pre-application engagement through the Hub – given the recent feedback provided by the Central Bank on their Dear CEO Letter to Payment and E-money Institutions on their supervisory expectations and the challenges faced by Fintechs throughout the application process, further engagement with the Hub on the application process would be very beneficial to new entrant business models.

- The ambition of creating the Hub as a focal point for productive exchange between innovators and the Central Bank has been hugely beneficial to the RegTech sector. This is a sector which has been a significant beneficiary of the Central Bank's Hub engagement process, albeit that most of these firms are not, and will not, be regulated entities. It would be beneficial if other Tech providers were to engage in this manner with the Central Bank, seeing the opportunities it can bring e.g., Cloud Service Providers in advance of new regulatory requirements under DORA.

A number of additional suggestions provided by members to enhance the approach to the Hub included:

- Thought Series – it was suggested that a Thought Series be designed and available to the public on key areas/ topics of interest e.g., Payment Institutions ('PI') Authorisation process, Central Bank's thought process in relation to the new upcoming regulations and guidance on Senior Accountability.
- It was also noted that members welcomed the shift towards video messaging by the Central Bank and view it as a more effective communication tool.
- Another member suggested the introduction of Partnerships to the Hub, with more industry participant involvement to enhance engagement.

Q7: What more should be done to support innovation while ensuring consumers' best interests are protected?

There were a number of suggestions put forward by Institute members on how to support innovation, balanced with ensuring that consumers' best interests are being protected. On the whole members were keen to ensure that Regulation, Compliance, and the Regulatory mindset is not seen as a blocker to new innovation and competition in the marketplace and that some messaging may need to change to reflect that mindset.

The CPC is viewed as the cornerstone regulatory tool to ensure that any new innovative process is designed by prioritisation of the interests of the customer. Very often new innovative processes seek to deliver an amazing customer service experience at point of sale/initial engagement. Any best interest assessment needs to follow through to pain points in the journey including customer service, claim, complaint.

Additional recommendations of ways in which more can be done to support innovation while protecting the interests of the consumer included:

- **Information and Education Campaigns**
  The introduction of the Digital Euro is a significant step in innovation, and new legislative reforms around Artificial Intelligence ('AI') will have a significant impact on the best interests of the consumer. It is imperative that consumers are fully informed of their rights and the obligations of firms/ecosystem players under these changes. It was recommended that the Central Bank, under its financial literacy theme, would table an information campaign on these topics which should focus on both supporting and celebrating the ingenuity of products such as a Digital Euro, while educating consumers on protecting their interests when using such products.

- **Research Groups**
  It was also recommended that research groups be established, in a Citizen's Assembly type format, to facilitate open and transparent discussions and challenge to new innovations and how they can best be adopted while balancing the best interests of the consumer.

Q8: How can regulators ensure that neither firms currently in the market, nor new entrants, have unfair advantages which could be a barrier to fair competition?

The aggregate message from members was one of support to ensure the regulatory landscape does not provide for barriers to entry to new entrants seeking to enter the Irish Financial Services market. All respondents noted the importance of the role of the Regulator and a transparent and clear set of rules necessary to ensure that any barriers are quickly identified, and the playing field levelled.

Some additional suggestions from members on how Regulators can ensure a level playing field to avoid barriers to fair competitions include:

- A review by the Regulator of the impact that BigTech firms have on competition in a market given their size, scale and the reach of their platforms, and whether measures should be put in place to ensure BigTech firms do not cause a barrier to fair competition;

- The provision by the Regulator of aggregate reporting data or industry-specific data to new entrants to assist new entrants in understanding the market they are considering entering; and

- It was suggested that the Regulator play a proactive role in seeking out barriers to a level playing field within the existing rule set. One example which was quoted was the requirement of credit unions under S. 149 of the CCA to obtain Central Bank approval for fee increases, whereas a Payment Institution offering similar services is not subject to s. 149 of the CCA, which provides an unfair advantage to the Payment Institution regarding its pricing structure.

Theme 2: Digitalisation

Q9: Do you agree with the Central Banks analysis of the benefits, challenges, and risks around digitalisation in the area of financial services? What are the key issues for you?

Amongst members' responses there was agreement with the benefits, challenges, and risks around digitalisation in Financial Services. An additional benefit identified was the ease and convenience with which a customer can gain access to financial products and engage with financial services providers on the go from their smartphones. While acknowledging the benefit, there was also an acknowledgement that it is not always in the customers best interests to gain access to financial products so easily and that there needs to be sufficient time for the customer to appreciate and understand the risks and the key features prior to purchase.

It will be helpful for CPC revisions to reflect challenges faced by the digital distribution of financial products and the manner in which the regulation is required to be adhered to. For example, the disclosures, key product information and disclaimers currently required are not easily translated into smartphone screen format. Guidance on how this information can be shared effectively with the customer in this new manner would be helpful.

Additional risks identified by members included:

- Pointing to accelerated automation of suitability assessments increases the risk of a lack of human intervention to ensure that the right outcome will be received by the customer. It was suggested that revisions to CPC recognise that this will be the manner in which suitability is assessed going forward and guidance should be provided on the expected role of the technology versus the human to ensure firms are acting in the customers best interest.

- Similar to the above comment in relation to display of required information on smartphone screens, there is a risk that the customer will not see all necessary information or find it difficult to consume when displayed on a smartphone screen. Guidance should be provided on how this key information should be communicated in the customers best interests.

- Cyber, malware and fraud risks were identified as the key emerging risks in an environment of accelerated digitalisation of financial products.

Q10: How do you think the personalisation and individual-targeting of ads can be made compatible with the requirement for firms to act in the best interests of customers?

Members made a number of recommendations on this question relating to consent, privacy and clear identification of advertisement and sponsorship.

Consent
Members noted that, similar to the General Data Protection Regulation ('GDPR') requirement for prior consent to be given, this should be reflected in CPC requirements to target ads to consumers. It was acknowledged however that, in the digital social media advertisement and marketing environment, this is not something that could be implemented easily.

Opt-Outs
Members also suggested that consumer opt outs should be further policed to ensure that where consumers are opting out of targeted financial services ads, firms are taking appropriate steps to ensure the consumer no longer receives targeted advertisements relating to their products and/or services.

Product Governance
Some members suggested that a robust product governance process could play a pivotal role in this area including establishing to establish if social media personalised ads will be part of the marketing strategy. If so, there should be identification of a suitable target market for such advertising as well as a negative target market. Target market monitoring should include monitoring of customer outcomes of such marketing and assessments of whether the ad/product is appropriately aligned to the target markets best interests.

Social Media
It was recommended that prescribed rules for the identification of ads as #ads #sponsoredads and #promotions should be included in revisions to the CPC. Similarly, there should be active campaigns around transparency and raising customer awareness and the accountability of financial services providers if this advertising method is used.

It was also suggested that the CPC reflect the increased use of Influencers in advertising financial products, how the advertising requirements should apply in those cases, and what accountability those Influencers have in relation to the products and/or services they are advertising.

Cookies
Finally, in relation to cookies it was highlighted by a member that the current advertising ecosystem is heavily reliant on the use of third-party cookies to enable businesses to identify and target relevant audiences. It forms part of a broader structure of programmatic ads and real-time bidding, which is both complex and opaque and thus very difficult to explain to consumers in a way that is transparent and easily understood. In response to privacy concerns, the use of these cookies is being phased out. Browsers such as Safari and Firefox have already implemented such an approach. Google Chrome, the dominant player globally, has indicated it will phase out cookies at some point in 2024; however, it should be noted that this deadline has moved a number of times already.

The phasing out of third-party cookies provides an opportunity for businesses and the broader advertising industry to 'reset' how they target individuals and the processing of their data. Two options appear to be proving popular as potential alternatives – a return to more contextually-based advertising without the need for profiling via cookies (e.g., advertising golf equipment on websites frequented by golfers); and an increased use of first party data. The latter is any data captured through a business's own channels, both online and offline.

As businesses seek to develop new first party data strategies, aspects of GDPR such as data protection by design and default will be important in ensuring this is done in a compliant manner, with privacy concerns considered from the outset. Tools such as data protection impact assessments play a key part in this. A premium should be placed on ensuring that any such strategies describe in clear and transparent terms to the consumer exactly how their data will be processed, adhering to GDPR principles and with a sound legal basis identified for the processing.

One member also noted that in general terms, there does appear to be in some instances a slight disjoint between the Central Bank and the Data Protection Commission ('DPC'). When updating advertising requirements under the CPC, it was suggested that engagement with the DPC might be useful to assist in having a common approach to aspects of advertising such as consent.

Theme 3: Unregulated Activities

Q11: The Code requires regulated firms to provide a statement indicating that they are 'regulated by the Central Bank'. Do you think this is useful for consumers?

Overall members were in agreement that it is useful for consumers for this statement to be provided by regulated firms.

However, it should be clear to consumers which activities the firm is regulated by the Central Bank for and which activities it undertakes that are not regulated by the Central Bank. Consumers should be able to easily access this information through the regulated firm's website and marketing material. Consumers may mis-interpret this statement to mean that all activities undertaken by the regulated firm are supervised/regulated by the Central Bank.

Q12: How can the difference between regulated and unregulated activities be made clearer for consumers?

Members noted that:

- Regulated firms websites/marketing material should outline which activities that it undertakes are regulated and as opposed to the activities that are not regulated.
- Activities (products/services) undertaken by regulated firms should contain suitable messaging ex-ante and ex-post outlining whether a product is regulated or unregulated.
- It should be clear to consumers as to the protections afforded to the relevant products, for example, the deposit guarantee scheme.
- There should be industry communication and awareness by relevant stakeholders outlining the difference between regulated and unregulated activities and associated risks.

- Throughout the product life cycle distribution materials (including for example messaging from sales staff through to claims and complaint events), firms should continue to clarify for consumers which products are and are not regulated.

Q13: Should there be additional obligations on regulated firms when they undertake unregulated activities?

Members noted that where regulated firms undertake unregulated activities, they should be obliged to make it explicitly clear to consumers which activities are unregulated. Furthermore, this should also be extended to where consumers are involved in customer journeys across firms that have different regulatory statuses, for example, Virtual Asset Service Providers and E-Money Institutions that are associated with the same corporate brand. This would avoid the risk that consumers assume that all activities undertaken by the regulated firm are subject to regulatory protections.

Theme 4: Pricing Matters

Q14: What can firms do to improve transparency of pricing for consumers?

Members observed that there should be continued focus on the need to take a plain English approach to the communication of fees and charges, including indicative examples.

Q15: In relation to pricing, are there examples of firms using unfair practices to take advantage of customer vulnerabilities?

Members provided the following examples:

- Following the Differential Pricing Review, it has been indicated that firms have taken advantage of customers loyalty. Further work to ensure transparency of pricing across the industry is required, and it is important to consider this across all financial service providers, as this may not be specific to the Insurance industry.
- Obscure penalties, or terms and conditions still contained in small print.
- Some felt that fees, such as Brokers fees, are not being disclosed over the phone.
- Providing too much information in non-simple terms leading to customer confusion.
- Asset manager costs are indecipherable to most customers. The Impact of costs on performance is not well understood. In life insurance and investment products, the annual statements/reports to customers provide very little useful or easily understood information to customers. This enables unfair practices and makes it difficult to compare across entities or product types.
- Fees and costs incurred within the transaction chain and the parties involved, can often be difficult to understand from a customer viewpoint. How a customer can identify those costs that are optional or adjustable is not always apparent and may therefore be unfair. If some firms price in percentages, and others price in absolute amounts, it may not be clear to customers who is offering better pricing - mandating both percentages and absolutes would make it clearer.

Guidance on ‘customer best interest’ as has been suggested by the Central Bank in its Discussion Paper will be a positive step in deterring some of the unfair practice examples provided above, as Firms will have clear guidance to check such practises against, which should highlight unfairness and prevent Firms from proceeding.

In addition to customer best interest guidance, given the examples provided above, the Central Bank should also consider further prescriptive guidance in relation to Firms transparency responsibilities regarding pricing, fees, costs and financial penalties associated with the services they provide. Such guidance should aim to ensure a uniform approach by the Financial Services Industry and should involve a consultation process with both Firms and the general public to obtain a proper balance of views.

Theme 5: Informing Effectively

Q16: How can regulation improve effectiveness of information disclosure to consumers?

Members believe that regulation can improve the effectiveness of information disclosure to consumers. Specific comments were as follows:

- Warning statements and mandated regulatory disclosures can be easily overlooked, even if they are in bold and placed in a prominent position. These can also lead to “information overload”. Members suggested that consumer surveys or focus groups could be conducted to understand consumer views on the effectiveness of disclosure statements, if this is not already underway.
- Regulation can be used to standardise the format and content of disclosure requirements. Use of industry or product standard Key Information Documents is preferrable. The documents should be concise, phone-friendly and customer-outcome focused.
- Use of plain English could be mandated.
- The volume of information to be provided should be considered. Significant volumes of information are also overwhelming and potentially confusing to consumers.
- The extent of warning messages required under the CPC should be considered, particularly where warnings are required under other regulations such as the CCA for mortgages. This can lead to duplication, which diminishes the importance of the message to consumers.
- Behavioural economics should be used by firms to tailor messages to ensure customer interact with them and understand the message.

Q17: How can firms better support consumers’ understanding – can technology play a role?

Members largely agree that technology can be used to introduce innovative and interactive ways to support consumers’ understanding of financial products and services. This can be achieved by:

- Introducing Standard European Consumer Credit Information (‘SECCI’’)-style documents to other areas of Financial Services which can be displayed to consumers.
- Use of videos or images to provide information instead of text-heavy documents.
- Use of plain English in help menus, tool tips, animated videos, survey tools, etc. could be made available in the FAQ section of apps or websites.

- Firms could use learning tools and provide them to customers with tests to ‘unlock’ access to new products, ensuring that customers have been educated in relation to product characteristics, costs and charges, risks, etc.
- Ability for consumers to choose how they would like to receive information i.e., hard copy, email, online. This flexibility allows consumers to receive the information in line with their preference.
- Technology could be leveraged to enable customers to have an easier route to ‘human contact’ with their financial advisor.

Members are also supportive of the Central Bank’s working with the Government on initiatives to raise financial literacy, which would be beneficial for consumers and the Financial Services industry. Members could also support such initiatives by contributing to the content of any such initiatives.

Q18: Does the way in which firms approach disclosure in respect of mortgage products need enhancing? If so, how? - taking account of the wide variety of features of mortgage products, and borrowers’ different circumstances and needs.

Members were of the opinion that mortgage customers are provided with too much information and disclosures for them to fully understand. The majority of the documentation is either required due to regulation, for example, European Standardised Information Sheet, Suitability Letter, CCA information and consents, along with Terms & Conditions. A short, concise Key Information Document could assist.

Additionally, it was felt that there should be a more transparent process for how to get help, should difficulties arise.

Theme 6: Vulnerability

The key emerging theme from members of the Institute was that the Central Bank could be more prescriptive in areas, to support financial services organisations with identifying and managing the relationship with vulnerable customers.

Q.19 Given that vulnerability should be considered more as a spectrum of risk than a binary distinction, how should firms’ duty to act in their customers’ best interests reflect this?

Definition of Vulnerability

Some members suggested that the Central Bank should consider including a more refined definition of “vulnerable”, as the current definition focuses on the selling part of financial service providers engagement with vulnerable customers and the definition should take into consideration the entire lifecycle of the consumer relationship. When selling financial products there should be a burden of suitability placed on the organisation (both at sales stage and throughout the life cycle of the relationship as the consumers circumstances change) and customers should only be sold products which are suitable to them. It was suggested that organisations should need to evidence how the product is suitable and any considerations they have made in reaching this determination.

Separately, another member outlined that a firm's duty to act in their customers best interests should be tied to the complexity of the product.

Vulnerability Status
It was proposed that the CPC could offer a list of considerations to help assess whether a personal consumer should be treated as vulnerable. For example, there could be a requirement to review vulnerable status of personal consumers on at least an annual basis. It was outlined that it may make sense to place an onus on customers to inform a regulated firm of vulnerable status for example, a customer could be asked to provide an attestation as to their vulnerability.

Target Market/Types of Vulnerable Customers
Members also suggested that organisations should specify in their target market, what types of vulnerable customers may be suitable to engage with. A negative target market approach might be useful to specify those customers/characteristics of customers that would not be compatible with specific products. The 'Know Your Customer' process affords an opportunity to consider vulnerability, however it was noted that customers typically do not wish to share information concerning vulnerability which can make this a challenge. It was stated that to act in a customer's best interests, perhaps requiring disclosures or product Key Information Documents, the Central Bank could set out a standard suite of customer types that could be addressed in a given document. It was also highlighted that given the level of scam activity and warnings in relation to same, it is less likely that customers will share any information that they consider is in addition to the minimum required.

Additional Guidance
Members were of the opinion that viewing vulnerability as a spectrum appears logical and should be reflected in a firm's policies, procedures, and training. From a regulatory perspective, this is an area which would benefit from more detail in the CPC and/or additional cross-sectoral guidance from the Central Bank.

Audit/Regulatory Review
Members were of the opinion that 'Vulnerable Customer divisions' activities should be audited by the Central Bank on a periodic basis. This would ensure that organisations are conducting a review of their processes in place for assessing vulnerability and treating vulnerable consumers fairly.

Selling Process and Transparency
Members also outlined that as part of the selling process, organisations should be transparent and advise the consumers where they can go to for help and complaints for example, organisations should not hide behind these processes.

Q20: What other specific measures might be adopted to protect consumers in vulnerable circumstances while respecting their privacy and autonomy?

Overlap with the new Assisted Decision-Making Legislation
In summary members agree with the concept of a vulnerable personal consumer providing a firm with the name of a trusted contact person. However how this may overlap with the new Assisted Decision-Making Legislation ('ANM') would need to be considered. For example, should an ADM represented be deemed as a trusted contact person.

Vulnerable Consumers in a Digital Age
It was also highlighted that recording vulnerability and providing the necessary support in a digital environment can be more challenging and consideration should be given to addressing this.

Audit/Regulatory Review (as outlined in Q19)
Members were of the opinion that 'Vulnerable Customer divisions' activities should be audited by the Central Bank on a periodic basis. This would ensure that organisations are conducting a review of their processes in place for assessing vulnerability and treating vulnerable consumers fairly.

Theme 7: Financial Literacy

Q21 What can responsible authorities do to improve financial education?

The key emerging theme from members responses was that a greater degree of financial literacy needs to be achieved in Ireland with all stakeholders having a responsibility to support consumers in achieving financial literacy. Overall members were of the view that there were specific ways this could be achieved.

Financial Literacy and Education
It was suggested that there needs to be a national strategy for financial literacy in Ireland. A number of members commented on the need for greater education at both primary and secondary level on financial products and services, with members suggesting that financial literacy should be part of the national curriculum.

The Role of the Competition and Consumer Protection Commission ('CCPC')
Members also commented on the possibility that the CCPC could play a greater role in disseminating key information to consumers around financial products and services. Members suggested that campaigns run by the CCPC for example could explain the role of the Code of Conduct on Mortgage Arrears ('CCMA') to mortgage holders or that a campaign focused on vulnerable personal consumers could explain the role of a trusted person (should that role be recognised under the revised CPC).

The Role of the Central Bank
Members also suggested that the Central Bank could produce more consumer-focused materials with one suggestion that the Central bank could produce overviews of specific financial products or services, setting out typical features, risks, and costs with a 'what to look out for' section. These overviews could be made available on the Central Bank's website or could be mandated by the Central Bank to be shared with potential consumers prior to the consumer taking out the product or service. It was also suggested that the Central Bank should increase the output of its Consumer Hub.

It was also suggested that the use of video and social media, rather than traditional written materials could be more useful in engaging consumers to educate themselves on financial products or services.

Q22 How can consumers be empowered to better protect their own interests when dealing with financial matters?

The Central Bank Consumer Hub

Members were of the opinion that while the Central Bank's Consumer Hub is excellent, it is not clear how often it is consulted by consumers. Members suggested that an online and/or a print media consumer information campaign, to publicise the Consumer Hub, would be beneficial. One member suggested financial services firms could be asked to refer personal consumers to the Hub, perhaps as part of issuing the annual statement required under the CPC.

Encouragement for Consumers to Research and Compare

Members also commented that consumers require more encouragement to shop around and to access the information and advice available via the CCPC website and be encouraged to use comparison websites and research products and services thoroughly.

Some members noted that as convenience is a key requirement for consumers in today's world, comparison platforms for financial products should be encouraged whilst the Regulator governs the true independence of those platforms.

Education and Financial Literacy

Similar to responses to Q21, members highlighted the importance of providing financial education to school children. It was also suggested the organisations should make information available to their staff on financial literacy.

Theme 8: Climate Matters

Q23: How should the financial system best fulfil its role in supporting the transition to a climate neutral economy?

Members considered that education in relation to climate neutrality and climate impacts on products and services should be promoted at a national level, while also being considered at an institution level. This should be considered as another area that the Central Bank could work collaboratively with the Government on initiatives to raise awareness and education levels among the wider public relating to climate neutrality.

At a macro-economic level, clear targets should be set for firms to achieve.

At a firm level, clear guidance should be provided to firms on how to classify products, removing subjectivity from the decision-making process and individual interpretation. This will assist clients in being able to compare products.

Q24: How will climate change impact on availability, choice and pricing for financial products and services?

Members were of the opinion that if there is a policy shift to encouraging customers purchase climate-friendly assets, those customers should be provided with additional supports as such products are normally more expensive. For example, additional Government support schemes (in a similar structure to Strategic Banking Corporation of Ireland ('SBCI') Energy Efficiency Loan Scheme ('EELS') product), could be very beneficial. Otherwise, the policy could result in financial exclusion.

In addition, it was felt that greater clarity on product/service characteristics from a climate and Environmental, social, and corporate governance ('ESG') perspective will in time, impact on the choices consumers make. It was noted that given the current cost of living crisis, this may take some time but in the long term would prove useful.

Q25: Does the impact of climate change require additional specific consumer protections?

Education
Members suggested that public/customer education relating to climate change is a key consideration at present. This will assist customers in making personal and business decisions relating to, for example, energy efficiency. Customers in certain industries may be particularly impacted, in that they need to pivot towards more climate friendly activities.

Product Classification
Clear criteria for product classification for sustainable/green products will assist with the comparability and positioning of products to customers. Members also suggested further regulation in the area of sustainability and green washing, as well as implementing prescribed metrics for firms to make statements in relation to a products sustainability.

Enhanced Protections
Consideration should also be given to enhanced protections for customers who experience vulnerability or financial difficulties due to climate change. An example of such a situation is where a person is placed under financial burden or becomes vulnerable due to increased costs/loss of income arising from climate initiatives. Some members were of the view that clarification is required from the Central Bank in relation to its Climate and ESG expectations. For example, the paper states "Firms need to ensure that they are acting in customers' best interests as financial products and services evolve to respond to climate change". It would be helpful to obtain guidance on this from an industry specific perspective, dependant on the nature and complexity of firms.