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THE WORLD BANK
Private and Financial Sector Development Department
Europe and Central Asia Region
Washington, DC

CROATIA

*Diagnostic Review of
Consumer Protection and
Financial Literacy*

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Diagnostic Review of Consumer Protection and Financial Literacy

Volume II Comparison against Good Practices

[February 2010]



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CROATIA

Diagnostic Review of Consumer Protection and Financial Literacy

Volume II Comparison against Good Practices

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Croatia: Consumer Protection in the Banking Sector

Introduction

The banking sector represented more than three quarters of total financial sector assets in 2008, increasing its market share back to the level of 2004. The share of assets from non-banking financial institutions had increased from 18.5% at end-2004 to 25.3% by end-2007. This was primarily due to the strong asset growth of investment funds, leasing companies and mandatory pension funds. The shares of other market segments (insurance, voluntary pension funds, housing savings banks and savings and loans associations) had not changed significantly. In 2008, the international financial crisis negatively affected the development of the investment funds and pension funds sectors. The participation of their assets in the total financial sector decreased from 12.1% in 2007 to 2.8% in 2008

Overall, the largely privately-owned banking sector has remained generally sound, amid a rapid credit expansion. Around 95% of banks are privately owned and the share of foreign ownership has remained high at 91% by March 2009. The number of banks at March 2009 is 34, which is high in relation to the overall market size. The degree of market concentration has remained moderate and it has not been an impediment to market competition. The four largest banks together has accounted for a market share of around 65% since 2004. The share of non-performing loans declined further from 4.0% in 2005 to 3.2% on average for 2006-2008, although by March 2009 the indicator increased to 3.6%. A number of measures have been taken to strengthen the supervision of the banking sector, in particular with a view to closer monitoring of currency-induced credit risk, arising from un-hedged balances in the non-financial sector. Reserves for the fastest growing banks were also increased. Prudential regulation led to a stronger recapitalization of banks, which has been conducive to financial sector stability in general.

Table 1: Market share of financial institutions in 2003 - 2008 (% of total assets)

Type of Institutions	2003	2004	2005	2006	2007	2008
Banks	83.4	81.5	78.8	76.3	74.7	82.1
Investment funds	1.7	2.0	3.8	5.6	7.3	2.6
Leasing companies	5.4	6.0	6.3	6.9	6.6	7.8
Insurance companies	5.4	5.2	5.1	5.0	5.2	5.7
Private pension funds	2.0	2.9	3.7	4.2	4.8	0.2
Housing savings banks	1.5	1.8	1.8	1.6	1.4	1.5
Savings and loans associations	0.6	0.5	0.5	0.5	-	-

Source: HNB, *Macprudential Analysis* December 2007, HNB *Annual Report* 2008, HANFA, *Quarterly Bulletin* December 2008

Household debt has been growing rapidly over the past five years. By June 2007 household debt represented 103.5% of disposable income and 85.0% of household deposits (compared to 63.5% and 68.1% by December 2003, respectively), indicating the rapidly growing indebtedness of the population.

Table 2: Household Debt in the Financial System

	Dec-03	Dec-04	Dec-05	Dec-06	Jun-07	Dec-08
Household Debt (HRK million)	57.3	68.4	82.2	100.9	111	135
as % of GDP	25.2	27.9	31.1	35.2	35.3	39.5
as % of gross disposable income	63.5	68.5	81.7	96.2	103.5	n.a.
as % of household deposits ¹	68.1	73.3	78.4	85.2	85.0	94.8
annual growth (%)	27.9	19.2	20.2	22.6	22.4	12.6

Source: HNB, *Macprudential Analysis* December 2007, *Bulletin 127* December 2007, HNB, *Annual Report* December 2008

Household loans represent more than half of the total loans in the banking sector. The participation of household loans in the banking portfolio increased from 50.33% at the end of 2006 to 52.40% at the end of 2007, and slightly decreased to 51.32% at the end of 2008. Loans provided for housing purposes represented 41.44% of the household loans in domestic currency as of December 2008.

Table 3: Household Loans in the Banking System (%)

	Dec-03	Dec-04	Dec-05	Dec-06	Dec-07	Dec-08
Household loans / Total loans	48.31	50.69	50.70	50.33	52.40	51.32
Household loans / loans in foreign currency	1.55	2.04	1.88	2.00	1.85	1.26
Household loans / loans in domestic currency	53.69	56.94	58.32	55.73	56.98	57.59
Housing loans / household loans in domestic currency	30.82	32.93	35.27	38.75	40.16	41.44

Source: HNB, *Macprudential Analysis* December 2007, *Bulletin 132* March 2008

An assessment of the level of consumer protection in the banking system of Croatia was carried out against a set of international good practices. The following paragraphs of this section provide a summary of the key findings and recommendations for the banking sector, whereas the next section consists of an assessment of a set of good practices. It must be stated at the very outset that this assessment is by no means exhaustive and does not claim to have captured all prevailing services, products and practices of the banking sector.

Legal Framework

The main law governing consumer protection in Croatia is the Consumer Protection Act, initially published in the Official Gazette (OG) No. 96/2003 and substantially amended in July 2007 (OG 125/2007). These amendments became effective in January 2008. Amongst other things, the new Law: (i) incorporates the European Union (EU) Directive referring to distance selling of financial services to consumers; (ii) harmonizes the national legislation on Consumer Protection with all the relevant EU Directives, including the Consumer Credit Directive, the Directive on Indication of the Prices of Products offered to consumers, and the Directive on Distance Selling; (iii) strengthens the role and competence of the State Inspectorate and the responsible inspectors of the ministry in charge of supervising the implementation of the said Act; (iv) regulates the out-of-court settlement of consumer disputes before the Conciliation Centre of the Croatian Chamber of Economy, the Mediation Centre of the Croatian Chamber of Trades and Crafts, the Mediation Centre of the Croatian Employers' Association, the Court of Honour of the Croatian Chamber of Economy and the Court of Honour of the Croatian Chamber of Trades and

¹ Household bank deposits include household deposits at household savings banks

Crafts; and (v) establishes a higher level of consumer protection in the Republic of Croatia, in line with the current standards in the EU Member States.

Apart from the above law, there are specific laws that deal with the banking sector which have an impact on consumer protection. They include: (i) Croatian National Bank Act (HNB Act, OG 75/2008), (ii) Credit Institutions Act (OG 117/2008), (iii) Law on Deposit Insurance (OG 177/2004), (iv) Decision on the Effective Interest Rate of Credit Institutions and Credit Unions and on Service Contracts with Consumers (OG 41/2009), (v) Decision Regulating Market Competition within the Banking Sector (OG 48/2003), (vi) Payment System Act (OG 133/2009) and (vii) Consumer Credit Act (OG 75/2009).

In addition, there are other general laws that also provide consumer protection. These include: (i) Act on Personal Data Protection (OG 103/2003, as amended by OG 118/2006 and OG 41/2008), (ii) Civil Obligation Act (OG 35/2005), (iii) State Inspectorate Act (OG 129/2005), (iv) Law of NGOs (2002), (v) Conciliation Law (OG 117/2003), (vi) Competition Act (OG 122/2003).

Institutional Framework and Enforcement Agencies

The State Inspectorate operates under the purview of the Ministry of Economy, Labor and Entrepreneurship and is the main body for enforcement of consumer protection in Croatia. The inspectors of relevant ministries collaborate with the State Inspectorate in the enforcement task. The State Inspectorate has 5 regional units with 32 branches, with approximately 380 inspectors. The headquarters has 30 staff that plan, strategize and manage the State Inspectorate. The region of Zagreb has 100 inspectors. All these inspectors cover different fields and are not specialized. In total, they receive around 1,000 complaints nationally, most of which relate to defective products. The State Inspectorate indicated that they do not have the competency on financial sector matters and hope to develop it. For this matter, they are planning to hire a lawyer and an economist soon.

Regulatory bodies and related bodies have taken on the task of receiving complaints in addition to the State Inspectorate. Thus, the non-banking financial supervisor (HANFA), HNB, Personal Data Protection Agency, Zagreb Stock Exchange, Croatian Insurance Bureau, Croatian Banking Association (HUB) and consumers associations are all receiving complaints and attempting to resolve them.

The National Consumer Protection Council that was established in 2008 consists of representatives of the state bodies responsible for consumer protection, the Croatian Chamber of Economy, the Croatian Chamber of Trades and Crafts, NGOs for consumer protection and independent experts in the consumer protection field.

In addition, there is a Consumer Protection Department under the Ministry of Economy, Labor and Entrepreneurship. It is in charge of elaborating the National Strategy on Consumer Protection and managing the Central Consumer Protection Information System, which will collect consumer complaints. In addition, the Department approves and supervises the Consumer Protection Counseling Centres, set up through consumer associations, and carries out the activities of the National Consumer Protection Council.

The current institutional arrangement for surveillance of consumer protection and handling of complaints needs to be streamlined. The practice is clear with matters pertaining to

consumer complaints in agriculture or other areas, as there is a single ministry in charge. According to the law, the Ministry of Finance ought to be the inspector for financial matters. It has not been acknowledged or designated as such. Furthermore, the Consumer Protection Department does not function as a Consumer Protection Authority. It merely collects data on an *ad hoc* basis and oversees the Consumer Protection Counseling Centres. The government ought to consider setting up a Consumer Protection Authority like many other countries in the region, which will act as the main authority for consumer protection, be the convergence point of all the various institutions, co-ordinate the National Consumer Protection Program, set the National Strategy and advice government on consumer protection.

Role of Private Sector, Non-governmental Organizations (NGOs) and Self-regulatory Organization (SROs)

The government in its National Program for Consumer Protection for 2007-08 clearly stipulates the role of NGOs in consumer protection. The establishment of the 4 counseling centers goes further to substantiate government's commitment with regards the role of NGOs in consumer protection. Nevertheless, the role of private sector in consumer protection issues in the financial system is not evident, other than through their respective business associations, such as HUB, Insurance Association and Investment Fund Management Companies Association. In accordance with the Associations Act (OG 88/2001) consumer associations are founded by consumers to promote and protect their rights. There are 26 consumer protection NGOs in Croatia. However there are only two which are relatively active in financial sector issues. There is a clear need for NGOs to play a more effective role. Funding is quoted as the major problem crippling their ability to contribute to consumer protection. It is important for the private sector, banks and HNB to work closely with NGOs, especially in the area of financial literacy.

The Consumer Protection Counseling Centres founded in Zagreb, Split, Osijek and Pula provide organized assistance to consumers. Operating permits were issued by the Ministry of Economy, Labor and Entrepreneurship. Their basic task is to receive written, oral, telephone, fax and e-mail consumer questions from a certain consumer protection area and to answer them. They also gather information, keep registers on the number and type of questions and they send reports to the Ministry of Economy, Labor and Entrepreneurship and competent inspection authorities.

Consumer Protection under the Credit Institutions Act

Articles 304 - 310 of the Credit Institutions Act deal specifically with consumer protection issues. Article 309 does not mandate the HNB to respond to individual complaints of credit institutions' clients but empowers HNB to monitor whether a credit institution complies in general with good business practices, discloses general operating conditions and contracts concluded with its clients. Article 310 also provides that, apart from the Credit Institutions Act, the Consumer Protection Act will apply. The current provisions in the Credit Institutions Act and the Consumer Protection Act provide a good foundation for consumer protection in the banking system. Apart from that, they also empower HNB to monitor its compliance by banks. The main challenge for Croatia is the enforcement of these provisions through effective institutional and complaints mechanism.

Code of Banking Practices

HUB adopted a Code of Banking Practices in 2000. The code is not principles-based, that is, specific and detailed procedures and undertakings instead of generalized and broad statements of

good practice and banks have not undertaken to be complied with. It is also not supported by detailed codes on specific products or services which will be useful for bank customers. It contains grand statements on the bank's relationship with customers and governance that carries no sanction when breached. Also according to consumer associations and lawyers, it is not widely known. There is a general tendency for most bankers associations operating in the EU not to adopt a principles-based Code of Banking Practices. The reason could be that the EU directives on credit and provision of other financial services are detailed enough to ensure good practices. The reality is that consumer literacy varies, the enforcement capacity of countries is not quite the same and as a result, there are varying standards of consumer protection in Europe. It is thus appropriate for Croatia to adopt a principles-based Code of Banking Practices. HUB ought to improve the current code so it is principles-based and provide meaningful undertaking to customers. HNB ought to require banks to provide a compliance statement *vis-à-vis* the Code of Banking Practices. HNB ought to also collect data on compliance to provide credible legitimacy to the enforcement of the Code by banks.

Terms and Conditions and Cooling-off Period

Another important shortcoming that HUB needs to address is the standardization of contracts and the introduction of a common terminology used by banks. It needs to encourage its members to use simple language, issue a one-page Key Facts Statement for products and also standardize the font size for terms and conditions. There is no cooling-off period for banking products other than for products delivered through distance contract by consumer of financial services (7 days) and contracts concluded away from trader's business premises (14 days). The foregoing is provided under the Consumer Protection Act. Products that require a commitment of more than 2- 3 years should be provided with cooling-off periods.

Affordability and Over-indebtedness

While banks carry out checks with the credit bureau on the creditworthiness of a customer, these practices vary from bank to bank. In this regard, each bank has its own internal procedure on the level of disposable income required to a customer for a loan to be approved. In addition, the disposable income is measured as percentage of income by some banks and in absolute terms by others. It is interesting that for a mortgage loan one bank requires a disposable income of HRK 2,500 whereas another bank requires HRK 1,700. The banks indicated that this is a very difficult area to deal with as there is quite an amount of predatory lending in the market. At the same time, customers just want their loans to be approved which forces banks to lend to retain their customers. It is important for banks to have a standard approach to disposable income calculation. This will enable policy intervention in the event the over-indebtedness of borrowers becomes a social issue.

Tied and Bundled Products

Competition policy in the EU community acquis requires a protection of the economic interests of consumers and thus tied and bundled products ought to be scrutinized carefully. There is no rule to regulate tied or bundled products in the Credit Institutions Act. However, Chapter XI carries some of the most advanced provisions to safeguard consumers from unfair and misleading practices. In addition, Article 9 (1) of the Competition Act states that there are forbidden all agreements that make the conclusion of contracts subject to the acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts. Banks have admitted that there are many

products which are tied or bundled. Banks are becoming creative to earn fee income and about 16 percent of a bank's operating income is from fees imposed on banking services. The Competition Authority together with the HNB should monitor the increasing competition between banks and other financial service providers. There is a clear need for the HNB to carry out surveys of bank products to see the nature of tied products and bundling practices by banks. HNB has already conducted surveys to analyze bundling practices when granting mortgage loans. It is important that undue tying and bundling of products do not result in increased cost for customers while curtaining their mobility.

Disclosure and Sales Practices

According to Article 306 of the Credit Institutions Act, a bank must comply with a high level of disclosure. Banks must have a contract for all services provided by it, give or make available to the consumer all the relevant terms of a contract before concluding it, and provide the customer a copy of the contract. Article 57 of the Credit Institutions Act prohibits any other person other than an authorized credit institution to offer banking services. Also, Article 306 requires the bank to disclose information on the terms of providing services to consumers in an appropriate place within its business premises and in an appropriate manner. Anecdotal evidence suggests that simplicity is not commonly practiced by banks and no key facts document is provided. All banks provide brochures on products which exceed a single page. Anecdotal evidence also suggests that banks do not generally use simple or plain language or certain font size and even if they attempt, because they are not reduced to a key facts document, customers hardly read any information provided by banks.

The Credit Institutions Act and the Consumer Protection Act place a huge emphasis on the disclosure of interest rates. For instance, written information on essential credit terms is required to be provided under the Credit Institutions Act (Article 306) and the CP Act (Article 74). Article 78 of the Consumer Protection Act requires any advertisement, regardless of whether or not it is an offer for a loan, to also include a statement of the nominal annual interest rate, a statement of any other loan charges and a statement of the effective interest rate. Consumer information that must be provided under Article 77 of the Consumer Protection Act requires the bank to provide the consumer in writing the maximum loan amount, if any; the nominal annual rate of interest and the conditions under which it can be changed; the charges imposed at the time of the conclusion of the contract; and conditions and procedures for the rescission of the contract. The same process applies to overdraft facilities according to Article 85 of the Consumer Protection Act.

While both the Credit Institutions Act and the Consumer Protection Act are rigorous with the requirement of disclosure, they both state different methodologies for calculating the APR. The 2009 Consumer Credit Act follows the methodology used by the HNB and thus eliminates the discrepancy. Banks should provide customers with information of the complaints procedure with regards to balance or inaccuracies in accounts or transactions. There are no provisions in the Credit Institutions Act or the Consumer Protection Act on the time, manner and process of dealing with errors in statements and transactions upfront.

Credit Card Statements

There is a general view even amongst bank officials that credit card statements need to be streamlined and made simpler. The statements are very confusing to customers and sometimes misleading. Some customers do not even understand that they accrue interest on the outstanding

balance even if they pay their minimum balance. Regarding liability on unauthorized transactions and stolen cards, the rules are clear and included in the terms and conditions of the contracts. In fraudulent cases, under Article 53 of the Consumer Protection Act, a trader must assume the damages resulting from the misuse of credit cards. The only issue here is that the font size of terms and conditions are so small and fine that no customer actually reads them until something goes wrong. HUB needs to marshal the banks to improve the clarity of credit card statements.

Notification of Changes

The law to a large extent mandates prior notice of changes in interest rate and charges. Article 308 of the Credit Institutions Act provides that where variable interest rates have been contracted, a credit institution must notify the consumer of the interest rate changes at least 15 days before the changes are effective. The Consumer Protection Act in Article 74 provides that the bank must indicate a statement of the conditions under which the effective interest rate may be amended. However, notification on changes in non-interest charges is not provided for in the Credit Institutions Act. Some big banks notify their customers in writing and at least give a 1-month notice. The notification is also posted on the website of the banks. There should be standardization of the notification in the case of changes to interest and non-interest charges.

Professional Competency of Bank Employees

Banks continuously train their employees to ensure that they are competent to deliver the services of the bank. The issue that surfaced during the assessment was the lack of number of staff at banks to provide the required information to customers when needed. Some of the users complain that the staff are expected to deal with so many products, as many as 6 different types of current accounts for instance, that they are often unclear on terms and conditions or unable to provide lucid explanation to them. It must be noted that the staff selling insurance and investment products are accredited or licensed by HANFA before they can sell these products. Banks need to ensure that staff are sent for refreshing courses and have sufficient teller time to deal with customer queries.

Debt Recovery Issues and Sureties

Banks rely heavily on the terms of the contract and expedited recovery process for debt recovery. Apart from the contract executed with the customer, banks rely on the Execution Act *Ovrsni zakon* (OG 57/1996 and amendments). This Act regulates the procedures whereby the courts implement the enforced collection of debts based on certified documents unless otherwise specified by special legislation. Banks rely totally on this law to recover debt. Another important related issue is the heavy use of sureties by banks. It is estimated that 75% of the loans have sureties. Sureties do not have any information on the total indebtedness of a borrower when they become co-debtors. It is surprising that a bank can bring action against the sureties without exhausting the legal recourse *vis-à-vis* the borrower. There have been cases where banks imposed a penalty interest of 15% on the borrower for default and at the same time attached the salary of a surety for the repayment of the loan taken by the borrower. However, in HNB's experience, charging penalty rates is uncommon.

HNB needs to look into the issue of sureties and debt recovery. Banks ought to lend on the creditworthiness of a customer and not the collateral in the form of security. The law should require banks in the first instance to exhaust all avenues of legal action against the borrower before taking any action against the co-debtor. In addition, creditors should be legally required to

obtain a court order before attaching the salary of any person, including the co-debtor, or garnishing his or her salary in a bank account. HUB also needs to look into this matter and get the banks to adopt a less abusive process for debt collection. The Code of Banking Practices needs to include this aspect and customers need to be informed before they default of the consequences of default, including the debt recovery process.

Privacy, Data Protection and Credit Information Sharing

Croatia has a credit bureau (HROK) for the banking system, which has been operational since May 2007. The credit bureau was founded by 20 banks and by April 2008 the system had already stored data on 2.7 million persons. The database contains negative and positive information and altogether 7.7 million trade lines, and banks use the bureau extensively. The Personal Data Protection Agency should clarify the Article 6 of the Act on Personal Data Protection, which states that personal data can be collected for the accomplishment of a purpose (credit issuance in this context) and shall not be excessive. Also, the Authority should communicate clear data retention periods based upon international best practices or the statistical prediction power of information. Thus, data shall not be kept longer than this predictive power lasts.² The fees charged to the consumer for obtaining the credit report should be transparent and informed upfront. The prices for this service should be cost-based and monitored by the Competition Authority, because of the monopoly status the credit bureau currently enjoys. The Information Exchange System (SRI) is another registry operated by HUB (which coordinates the registry on behalf of banks) and it is the "black list" (debtors are included in it under two criteria set by the association: time period and unpaid debt). There is no automatic trigger between the two registries and they operate completely independent of one another. They operate on completely different IT platforms and are not connected in any way. The same issues in relation to correction of customer information and retention of information are also pertinent with the SRI registry.

Informal Internal Dispute Resolution Mechanism

An important element of consumer protection is recourse mechanism within banks and the Credit Institutions Act recognizes the need for informal internal dispute resolution mechanism. Article 309 of the Credit Institutions Act deals with complaints procedures in general. It provides that a consumer who considers that a credit institution is not compliant with the terms and conditions of a contract on the provision of banking and other financial services, he or she may file a complaint against the credit institution to: (i) a competent organizational unit within the credit institution, (ii) organizational unit of the credit institution responsible for addressing consumer complaints, (iii) internal audit of the bank, (iv) consumer protection association, (v) competent regional office of the State Inspectorate, and (vi) other competent authorities. The major problem with these provisions is that it does not require the exhaustion of internal relief within a bank before going outside the bank. There is no directive from HNB on the type of internal mechanism that banks must put in place to apply this Article. Also, there is no monitoring on whether this Article is being complied with.

An effective internal mechanism for resolution of complaints and disputes should contain critical elements. Amongst other things, banks ought to have a written procedure for the proper handling of complaints that have not been resolved in 5 days, acknowledge each complaint in

² Retention periods differ from country to country. Positive information might be maintained up to 2 years, negative information up to six years. It is based on statistical power of the data.

writing within 5- 10 business days of the complaint being received, provide the complainant with the name of one or more individuals appointed by the bank to deal with the complaint until it is resolved or cannot be processed any further and provide the complainant with a regular written update on the progress of the investigation of the complaint at intervals of not greater than 20 business days. Banks should also, within 5 business days of completion of the investigation of the complaint, communicate the outcome of the investigation and, where applicable, explain the terms of any offer or settlement being made. Apart from that, banks ought to have a summary of their procedure for handling complaints in the bank's terms of business and, when they receive a verbal complaint, banks ought to offer the consumer the opportunity to have the complaint treated as a written complaint.

The interviews with banks revealed that though banks have an internal procedure for dealing with consumer complaints, it is neither published nor publicized. However, the anecdotal evidence provided by customers and consumer associations indicated that this is one of the weak points in the banks relationship with customers. Procedures for handling complaints ought to be mandated for all banks and these procedures ought to be standardized and incorporated in the Code of Banking Practices. HNB ought to look through the record of complaints in banks periodically to identify the major issues confronting the customers and evaluate whether these issues are likely to become big consumer confidence issues, apart from identifying the areas where banks may have weaknesses in their internal systems.

Formal Claims and Dispute Settlement Mechanism

The current provisions in the Credit Institutions Act (Article 309) provide several avenues for dealing with this. As a result, customers of banks can complain to HUB, HNB, the State Inspectorate, the consumer associations, the consumer counseling centres or HANFA. Sometimes they lodge the same complaint at various places to seek redress. The major issue with the foregoing is that procedures, processes and time taken to resolve a complaint are not streamlined. Consumers cannot predict the possible relief as it may differ with each institution. The other problem is that there is no consolidated data of the number of complaints, their nature and their frequency. Having an ombudsman or its equivalent for financial sector consumer complaints will help enormously.

While the Consumer Protection Act does provide a formal out-of-court dispute settlement mechanism, it is unclear how it will be implemented. Article 130 of the Consumer Protection Act regulates the out-of-court settlement of consumer disputes before the Conciliation Centre of the Croatian Chamber of Economy, Mediation Centre of the Croatian Chamber of Trades and Crafts, Mediation Centre of the Croatian Employers' Association, the Court of Honor of the Croatian Chamber of Economy and the Court of Honor of the Croatian Chamber of Trades and Crafts. The conciliation procedure is to be carried out in line with the Rules of Procedure of the said entities. A bank in dispute should advance the payment for the cost of mediation – if a client is found to be right in his or her claim toward the bank, he or she should repay the cost of mediation to the bank. However, the Consumer Protection Act provides that the cost of mediation in the banking sector and all the other sectors should come from the State budget. HUB is in the process of setting up the process of handling disputes between customers and banks through the Mediation Centre run by the Croatian Employers' Association. It is planning to approve a list of 30 mediators for banking cases and customer can use the Mediation Centre to resolve their claims.

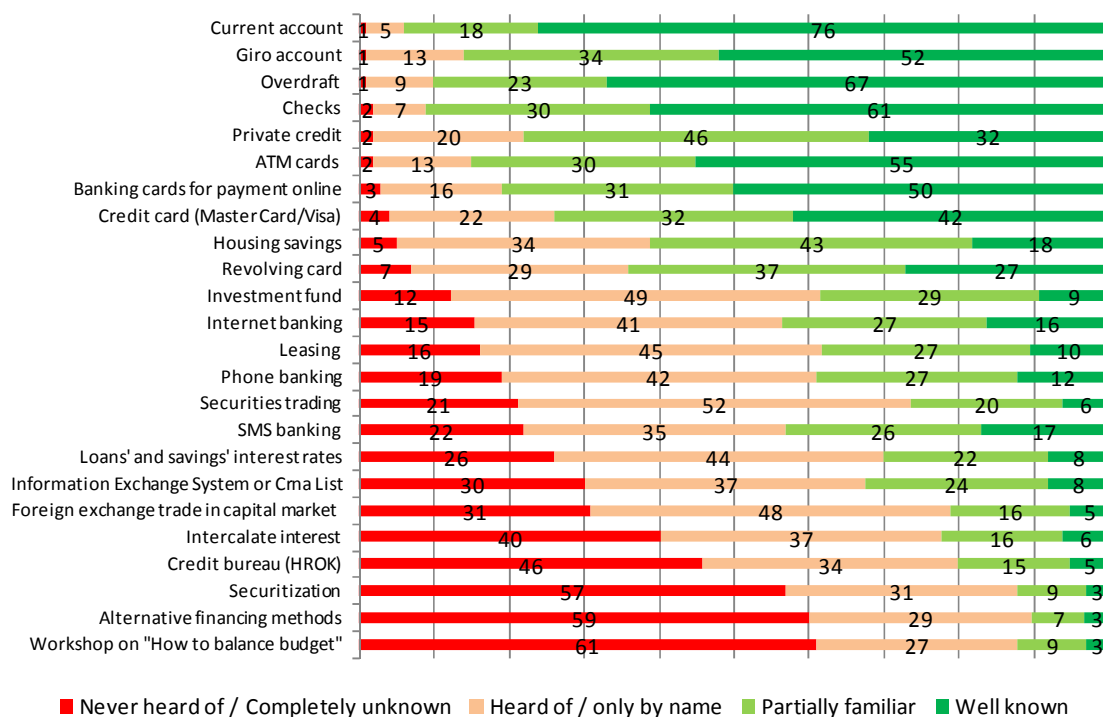
While HUB must be commended on their commitment to comply with the requirement of the Consumer Protection Act, it is important for HUB to address a number of issues related to this initiative. Issues include t: (i) the Mediation Centre run by the Croatian Employers' Association had one mediator by 2008, specialized in labor matters, and the Centre only had two mediation cases in 2007; (ii) lawyers represent clients in mediation process and they have been boycotting the mediation centres as this process affects their income (given its one-session rule); and (iii) the Mediation Centre does not have any specific institutional arrangement and relies on the Croatian Employers' Association office to carry out its mediation services; and (iv) reliance on State budget for mediation may not be the optimal financial arrangement. The foregoing issues pose serious challenges to the success of the proposed mediation service for the banking sector.

While the choice of the institution to deal with dispute settlements ought to be a country's choice, international good practice in this area clearly requires certain elements to be present in such a system to ensure effective protection to consumers. Thus, the institution should: (i) be permanent and publicly perceived as independent and competent; (ii) be accessible to consumers; (iii) have means to sanction a financial institution that does not comply with its decision, either through fines or "name-and-shame process"; (iv) have sufficient resources through fees collected from participating institutions and government budget; (v) compile data on disputes and analyze them; (vi) publish statistics on numbers of complaint, types of complaints and their final resolution; (viii) cooperate and communicate frequently with the financial regulators, adding substantive value to the consumer protection regime; and (ix) play a role in educating consumers by providing them with information. Given the above requirements for an effective dispute settlement mechanism, it is important for the authorities to evaluate carefully whether the mediation centre being proposed for the banking sector, which makes up 80% of the financial system, will be effective.

It may be more expedient to consider setting up an independent statutory Ombudsman or its equivalent. In the medium term, it would be more appropriate to have a single dispute settlement body for financial services - including insurance and investment products. It would be more cost efficient and it can also be funded jointly by the government, regulators and the industry.

Financial Education and Literacy

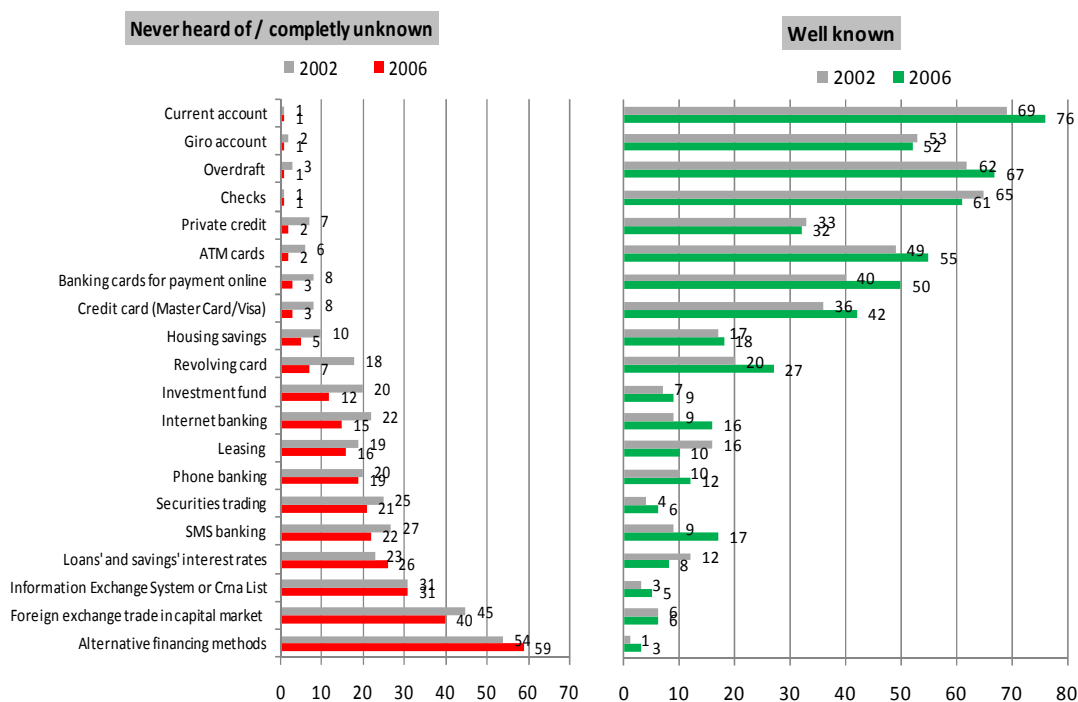
It is unfortunate that there is no effective consumer awareness or literacy campaigns that help customers to understand banking products and services better and avoid problems at the outset. The GFK survey (2006) revealed that: 26% have never heard of loan interest rates or savings interest rates (it increased from 23% in 2002), 30% have never heard of the *Crna Lista* (black list) and 46% of HROK. In the section of most preferred role for banks, apparently 75% strongly support the use of "quiet" dispute settlement mechanisms between banks and clients as opposed to courts. Although the outcome of the survey is based on a limited sample, it clearly indicates the need for financial literacy amongst financial services consumers. See Figures 1 and 2.

Figure 1: Banking Costumers' Familiarity with Financial Issues

Source: GfK Survey

HUB carried out a public literacy campaign to educate customers on personal finance management. HUB and UNDP developed a program for conducting free interactive workshops on managing personal finances to the general public. The consumer association *Potrošač* also participated providing a brochure on “Financial and Banking Services in the Consumer Protection System”. After developing a pilot phase in Zagreb in 2006, with 27 workshops attended by 300 people, HUB engaged in a nationwide program of workshops starting in June 2007. These workshops were carried out in eight regions under the name of “How to harmonize revenues and expenses?” They had 1,500 participants and substantive coverage in the press and television, which reached out to customers who could not attend. HUB plans on doing the same this year with a bigger group.

There is a significant number of NGOs dealing with consumer protection issues but with insufficient resources and expertise. The government has funded 4 NGOs to run the Consumer Protection Counseling Centres (in Zagreb, Split, Osijek and Pula). The other 22 NGOs dealing with consumer protection issues suffer from lack of financial and human resources, and lack of expertise in financial sector issues. There is a financial sector expert in the Zagreb Centre who provides guidance and information to consumers. The others however do not have anyone specialized in financial sector matters. There ought to be better collaboration between HNB, HUB and consumer protection authorities in this area. HUB ought to look into ways of using the NGOs to deliver their awareness program.

Figure 2: Comparison of Knowledge of Banking Products in 2002 and 2006

Source: GfK Survey

Role of Media

Consumer issues get featured in a TV program called “Good Morning Croatia” and there are also weekly programs that deal with consumer protection issues. However, the general view is that not many journalists or media personnel have the competence in financial sector matters to make a meaningful impact on financial services consumers. The media is often accused of sensationalizing issues instead of providing meaningful insight to issues. The banks often provide information through the newspaper on changes in fees and charges. Apart from that, there is very little collaboration between the media and the banks. There is also no evidence of collaboration between government, HNB and the media to improve consumer literacy. There is a clear need for improving the awareness and competency level of the media personnel. HNB and HUB should first train the media on critical financial sector matters to enable them to analyze and provide opinions to consumers. Steps should be taken to initiate the collaboration between these institutions. Various strategies can be developed and the media can be partners with HUB or HNB to improve the delivery of financial literacy to consumers.

Also there is no independent publication by HNB or consumer advocate group on the costs, risks and benefits of financial products and services. There is only anecdotal and general reference to the type of problems faced. Generally, consumers have no reference point with regard to financial literacy. HUB publishes a tariff comparison but it does not serve a very useful purpose as it is too generalized and reflects the interest rate and charges the banks are willing to be bound by for the publishing period. There is a need for an NGO or institution to collate these data and publish them in a way that consumers can make informed decision on interest rates and charges. The assessment did not reveal any such initiative.

There is no data available on the consumption pattern of financial consumers in Croatia to enable authorities to custom tailor a financial literacy program. HUB collected some basic data on consumers during their public awareness programs. This is an ad hoc collection of data. There has been no large-scale survey on financial sector consumers so far. The same can be said with regards to vulnerable consumers. The only indicators that can be used are loan default rates. However there are no details of the level of indebtedness and most vulnerable groups in the society. Either HNB or the Consumer Protection Department, in collaboration with HUB, the media and NGOs, ought to carry out a large-scale survey that measures the level of financial capability of consumers and allows to understand the behavior of consumers in the financial sector.

Co-operation between Regulators and Competition Policy

HNB monitors the operations of banks and banking groups, which might result in preventing or restraining competition in the provision of banking services. While monitoring the freedom of market competition and establishing whether it has been limited, HNB may request the Competition Authority to express its views. In the event that it establishes that the freedom of market competition has been limited during the provision of banking services, HNB is obliged to implement measures to secure the freedom of market competition. HNB, which is the competent authority for market competition in the area of financial services offered by credit institutions, signed a Memorandum of Understanding with the Competition Authority in 2003.

Good Practices: Banking Sector

A proper assessment of the overall banking sector and the environment in which it operates is critical to determine whether or not some of the principles listed below are relevant for the country. Good business relationships between the local commercial banks and the public in general are one of the key issues for the development of the economy. There has to be mutual trust and confidence. In the absence of transparency in pricing, adequate consumer awareness and protection and dispute resolution mechanisms, banking systems have less efficiency and accessibility.

SECTION A	CONSUMER PROTECTION INSTITUTIONAL FRAMEWORK
Good Practice A.1	<p><i>Consumer Protection Regime</i></p> <p>The legal system should recognize and provide clear legal rules on consumer protection and there should be adequate institutional arrangements for effective implementation and enforcement of consumer protection rules, which includes:</p> <ul style="list-style-type: none"> a. Specific legal provisions in the law which provides for consumer protection. b. Consumer agency or specialized agency, responsible for implementing, overseeing and enforcing consumer protection rules, and data collection and analysis (including complaints, disputes and inquiries). c. A role for the private sector, including voluntary consumer protection organizations and self-regulatory organizations.
Description	<p>a. Legal Framework</p> <p><i>The main governing law is the Consumer Protection Act of 2003 which was amended substantially in July 2007 and, except for one part, became effective in January 2008.</i> Amongst other things, the amended Consumer Protection Act: (i) incorporates EU Directive referring to distance selling of financial services to consumers; (ii) harmonizes the national legislation on consumer protection with the relevant EU Directives, including the Consumer Credit Directive, the Directive on Indication of the Prices of Products offered to consumers and the Directive on Distance Selling; (iii) strengthens the role and competence of the State Inspectorate and responsible inspectors of the ministry in supervision of implementation of the said Act; (iv) regulates the out-of-court settlement of consumer disputes before the Conciliation Centre of the Croatian Chamber of Economy, Mediation Centre of the Croatian Chamber of Trades and Crafts, Mediation Centre of the Croatian Employers' Association, the Court of Honour of the Croatian Chamber of Economy and the Court of Honour of the Croatian Chamber of Trades and Crafts (the conciliation procedure is to be carried out in line with the Rules of Procedure of the said entities); and (v) establishes a higher level of consumer protection in Croatia, which is in line with the current standards in the EU Member States.</p> <p><i>The specific laws relating to the banking sector, which have provisions relating to consumer protection are:</i> (i) Croatian National Bank Act (HNB Act, OG 75/2008), (ii) Credit Institutions Act (OG 117/2008), (iii) Law on Deposit Insurance, (iv) Decision on the Effective Interest Rate of Credit Institutions and Credit Unions and on Service Contracts with Consumers (OG 41/2009), (v) Decision Regulating Market Competition within the Banking Sector (OG 48/2003), (vi) National Payment System Act (OG 133/2009) and (vii) Consumer Credit Act (OG 75/2009).</p> <p><i>There are also other laws relating to consumer protection including:</i> (i) Act</p>

<p>on Personal Data Protection (OG 103/2003, as amended by OG 118/2006 and OG 41/2008), (ii) Civil Obligation Act (OG 35/2005), (iii) State Inspectorate Act (OG 129/2005), (iv) Associations Act (OG 88/2001), (v) Conciliation Law (OG 117/2003), (vi) Competition Act (OG 122/2003).</p> <p>b. Institutional Framework and Enforcement Agencies</p> <p><i>The State Inspectorate</i> operates under the purview of the Ministry of Economy, Labor and Entrepreneurship and is the main body for enforcement of consumer protection in Croatia. The inspectors of relevant ministries collaborate with the State Inspectorate in the enforcement task.</p> <p>The State Inspectorate has 5 regional units with 32 branches, with approximately 380 inspectors. The headquarters has 30 staff that plan, strategize and manage the State Inspectorate. The region of Zagreb has 100 inspectors. All these inspectors cover different fields and are not specialized. In total, they receive around 1,000 complaints nationally, most of which are concerning defective products. The State Inspectorate indicated that they do not have the competency on financial sector matters and hope to develop it. For this matter, they plan to hire a lawyer and an economist.</p> <p><i>The interaction of the State Inspectorate with other ministries is good.</i> The administrative cooperation and information tasks are regulated by the General Administrative Procedure Act. While the response from the non-banking financial supervisor (HANFA) is reasonable on consumer protection, the interaction with HNB can be termed distant. The State Inspectorate has introduced a new, web-based system for complaints and expects to have more detailed statistics about complaints in the future. Further, the consumer association <i>Potrošač</i> regularly informs the State Inspectorate of trends in the market.</p> <p><i>Regulatory bodies and related bodies have taken on the task of receiving complaints.</i> Thus, HANFA, HNB, Personal Data Protection Agency, Zagreb Stock Exchange, Croatian Insurance Bureau, Croatian Banking Association (HUB) and consumers associations are all receiving complaints and attempting to resolve them.</p> <p><i>The National Consumer Protection Council</i> that was established in 2008 consists of representatives of the state bodies responsible for consumer protection, the Croatian Chamber of Economy, the Croatian Chamber of Trades and Crafts, NGOs for consumer protection and independent experts in the consumer protection field.</p> <p><i>The Consumer Protection Department</i> under the Ministry of Economy, Labor and Entrepreneurship is in charge of elaborating the National Strategy on Consumer Protection and managing the Central Consumer Protection Information System, which will collect consumer complaints. A consumer can submit an application or a question, after filling basic personal information, indicating the reason of his application (law interpretation, advice or inspection) and opting for uploading an attachment. The consumer receives a PIN to track the status of the application.</p> <p>According to the Article 130 of the Consumer Protection Act, the main out-of-court dispute settlement mechanisms are those run by: (i) the Croatian Chamber of Economy (Conciliation Centre and Court of Honour), (ii) the Croatian Chamber of Trades and Crafts (Mediation Centre and Court of Honour), and (iii) the Croatian Employers' Association (Mediation Centre). The courts (Courts of General Jurisdiction and Commercial Courts) are the ultimate arbitrators of consumer protection issues.</p> <p>c. Private sector, non-governmental organizations (NGOs) and self-regulatory organizations (SROs)</p>

	<p>The National Program for Consumer Protection for 2007-08 clearly stipulates the role of NGOs in consumer protection. The establishment of Consumer Protection Counseling Centres in NGOs located in four different regions (Zagreb, Split, Osijek and Pula) goes further to substantiate government's commitment with regards the role of NGOs in consumer protection. Their basic task is to receive written, oral, telephone, fax and e-mail consumer questions from a certain consumer protection area and to answer them. They also gather information, keep registers on the number and type of questions and send reports to the Ministry of Economy, Labor and Entrepreneurship and competent inspectorate authorities. Their operating permits were issued by the Ministry of Economy, Labor and Entrepreneurship.</p> <p>In accordance with the Associations Act, consumer associations are founded by consumers to promote and protect their rights. There are 26 consumer NGOs in Croatia. However there are only 2 which are relatively active in financial sector issues.</p> <p>The role of the private sector in consumer protection issues in the financial sector is not evident further than through their respective business associations such as HUB, Insurance Association and Investment Fund Management Companies Association.</p>
<p>Recommendation</p>	<p>a. Jurisdiction over surveillance and enforcement is unclear.</p> <p>The current institutional arrangement for surveillance and complaints handling at present needs to be streamlined for dealing effectively with consumer protection in financial services. The practice is clear with matters pertaining to agriculture or other areas as there is a single ministry. According to the law, the Ministry of Finance ought to be the inspector authority for financial matters. However it has not been acknowledged or designated as such. In the case of banks, customers complain to HUB, HNB, State Inspectorate, consumer associations, Consumer Counseling Centres and HANFA.</p> <p>The major issue with the foregoing is that procedures, process and time taken to resolve a complaint are not streamlined. In addition, a consumer cannot predict the possible resolution of his or her complaint, since it may differ with each institution. The other problem is that there is no consolidated data of the number, nature and frequency of complaints. Having an Ombudsman or an equivalent institution for financial sector consumer complaints will help enormously.</p> <p>The Consumer Protection Department does not function as a Consumer Protection Authority. The government ought to consider setting up a Consumer Protection Authority like many other countries in the region. This agency will serve as the convergence point of all the various institutions dealing with consumer protection, co-ordinate the National Consumer Protection Program, set the National Consumer Protection Strategy and advise the government on consumer protection issues.</p> <p>The Croatian authorities have taken first steps to develop a system of monitoring consumer protection in the financial sector. In 2009, the Ministry of Finance set up a special Unit for Financial Literacy and Consumer Practices. Although the Unit has no executive powers, it is responsible for monitoring consumer practices. When financial consumer complaints are submitted to the Ministry of Finance, they are forwarded to the Unit for further attention. HNB is also considering creating a special Unit for Consumer Protection and Financial Education, which would be placed outside the Supervision Department.</p> <p>b. Private sector, NGOs and SROs</p> <p>There is a clear need for NGOs to play a more effective role. Funding is quoted as</p>

	<p>the major problem crippling their ability to contribute to consumer protection. It is important for the banks and HNB to work closely with NGOs, especially in the area of financial literacy.</p>
Good Practice A.2	<p><i>Consumer Protection in the Banking Sector</i></p> <p>Consumer protection in the banking sector ought to be backed by specific legal provisions in the law or regulations and/or code of banking practices relating to banking activities.</p> <ol style="list-style-type: none"> a. The Code of Banking Practices should be principles-based and complied with by banks. b. Appropriate mechanisms ought to be in place to impose sanctions on the breach of the Code of Banking Practices. c. Banks should publicize the Code of Banking Practices to the general public through appropriate means. d. Banks should observe commonality in terminology regarding the description of bank charges, services and products; and use such terminology when publishing or displaying details of such charges.
Description	<p>Consumer Protection under the Credit Institutions Act</p> <p>Articles 304-310 of the Credit Institutions Act deal specifically with consumer protection issues. While Article 309 states that HNB shall not respond to individual complaints of credit institutions' clients, it empowers HNB to monitor whether a credit institution complies in general with good business practices, discloses general operating conditions and contracts concluded with its clients, and complies with consumer protection provisions of the Credit Institutions Act and the Consumer Protection Act. Article 309 also indicates that HNB is the competent authority to conduct inspection to a credit institution in case of breaches of the consumer protection provisions of the Credit Institutions Act or the Consumer Protection Act. Article 310 also provides that apart from the Credit Institutions Act, the Consumer Protection Act will apply.</p> <p>The current provisions in the Credit Institutions Act and the Consumer Protection Act provide the necessary legal basis for customer protection in the banking system. These provisions also empower HNB to monitor its compliance by banks.</p> <ol style="list-style-type: none"> a. Code of Banking Practices – HUB adopted a Code of Conduct for bankers in 2000. The Code is not principles-based but contains grand statements on the bank's relationship with customers and governance. Apart from that, the Code is not undertaken to be complied with, publicized widely or detailed enough to be useful for banking customers. b. Sanction – Since the Code is not principles-based or binding, there are no sanctions in it. c. Publicity – The Code appears in the HUB's website. According to consumer associations and lawyers, it is not widely known. d. Common terminology – There is no commonality in the terminology used by banks and no steps are being taken to address this.
Recommendation	<ol style="list-style-type: none"> a. Code of Banking Practices - There is a general tendency for most banking associations operating in the EU of not adopting a principles-based Code of Banking Practices. The reason could be that the EU directives on credit and provision of other financial services are detailed enough to ensure good practices. The reality is that consumers' financial literacy varies between countries, the enforcement

	<p>capacity of authorities in different countries is not quite the same and as a result, there are varying standards of consumer protection throughout Europe. Thus it is appropriate for each country to adopt a principles-based Code of Banking Practices. HUB ought to improve the current Code so it is principles-based and provides meaningful undertaking to customers.</p> <p>b. Sanction – HNB ought to require banks to provide compliance statement <i>vis-à-vis</i> the Code of Banking Practices. HNB ought to also collect data on compliance to provide credible legitimacy to the enforcement of the Code by banks. HNB has started a dialog with HUB and the Croatian Chamber of Economy in 2009 in order to urge them to develop a unified Code of Banking Practices, which will be adopted by all credit institutions operating in Croatia. Once the Code is implemented, HNB would require mandatory public disclosure on the compliance of individual institutions with the Code.</p> <p>c. Publicity – HUB should increase the publicity of the Code of Banking Practices.</p> <p>d. Common terminology – HUB ought to start working on common terminology to enable customers to compare products and prices. The existing terminology is too complex even for those with tertiary education.</p>
SECTION B	DISCLOSURE AND SALES PRACTICES
Good Practice B.1	<i>Know Your Customer</i> Banks should comply with the know-your-customer policies of the regulator. The bank should also obtain records and retain sufficient information to enable it to provide the products or services sought by the consumer.
Description	<p>The Anti-Money Laundering Law was issued on July 04, 1997 and amended on 10 October 1997, 24 July 2001, 20 December 2001, 23 July 2003 and in 2004. Under this Law, identification of a customer (or its proxy) is necessary for opening of an account, performing any cash transaction, foreign currency transaction or linked transactions that exceed counter value of HRK 105,000 (€ 14,000 approximately).</p> <p>Banks collect sufficient information to ensure that they know their customers.</p>
Recommendation	No recommendation is presented.
Good Practice B.2	<i>Affordability</i> Banks have a duty to ensure that customers are provided with the most appropriate product and service. <ol style="list-style-type: none"> a. A bank should ensure, having regard to the facts disclosed by the consumer and other relevant facts, that a product or service offered to a consumer is affordable for the consumer. b. Banks should comply with regulatory rules or internal rules on disposable income. c. Banks ought to ensure that where it recommends a product to a consumer, the recommended product is suitable for that consumer.
Description	<p>a. Affordability- Banks carry out checks with the credit bureau on the creditworthiness of a customer and the total exposure of loans the customer has.</p> <p>b. Disposable income- Each bank has its own internal procedure on the level of disposable income required to a customer for a loan to be approved. In addition, the disposable income is measured as percentage of income by some banks and in</p>

	<p>absolute terms by others. It is interesting that for a mortgage loan one bank requires a disposable income of HRK 2,500 whereas another bank requires HRK 1,700. The banks indicated that this is a very difficult area to deal with as there is quite an amount of predatory lending in the market. At the same time, customers just want their loans to be approved.</p> <p>c. Suitability- Banks rarely use this test and rely on the customer's expression of needs.</p>
Recommendation	<p>In general, it is important for banks to have a standard approach for the requirement of a customer's disposable income. This will enable policy intervention in the event that over-indebtedness of borrowers becomes a social issue.</p> <p>However the HNB notes that, the issue of over-indebtedness of borrowers becoming a social problem goes beyond the banking sector (given that indebtedness may also arise from credit cards, leasing contracts, retail stores credit, among other sources). HNB conducted a study on the methods adopted by banks for calculating customer's disposable income and the conclusion was that the methods were adequate for the banking sector and did not lead to over-indebtedness. HNB has also encouraged HUB to fully develop the credit bureau and require use of the borrowers' debt information available in the bureau by credit institutions. HNB monitors the procedure for granting credits during on-site examinations, and if the procedure is not adequate and the disposable income is set too low, HNB takes appropriate measures against the credit institution.</p>
Good Practice B.3	<p><i>Cooling-off Period</i> Unless explicitly waived by the consumer in writing there should be a cooling-off period of at least seven days associated with credit products that have long-term commitment, typically beyond 3 years.</p>
Description	<p>The Consumer Protection Act established cooling-off periods for banking products delivered through distant contracts by consumer of financial services (7 days) and for contracts concluded away from trader's business premises (14 days).</p> <p>The 2009 Consumer Credit Act prescribes cooling-off periods for most types of loans for retail customers. For loans that do not fall under the scope of the Consumer Credit Act, HNB is considering the inclusion of cooling-off provisions in the next change of the Credit Institutions Act.</p>
Recommendation	<p>Products that require a commitment of more than 2 or 3 years should be provided with cooling-off periods. The inclusion of cooling-off provisions in the 2009 Consumer Credit Act is a step in the right direction. However cooling-off provisions should also be applicable for other types of loans. The Credit Institutions Act should be modified accordingly to provide for cooling-off periods.</p>
Good Practice B.4	<p><i>Tied or Bundled Products and Linked Sales</i> Tied or bundled products and linked sales curtail mobility and choices open to customer. As such-</p> <ol style="list-style-type: none"> a. As much as possible, banks should reduce tied and bundled products. b. In cases where an insurance policy is required or mandatory for granting a loan, the bank should permit the consumer to purchase the insurance product from a service provider of the customer's choice.
Description	<p>Competition policy in the EU community acquis requires a protection of the economic interests of consumers.³ All business practices that restrict, prevent or</p>

³ This includes protection from misleading and comparative advertising and unfair contract terms, for instance.

	<p>distort competition are subject to scrutiny. In Croatia, this has been supplemented by the Competition Act (OG 122/2003). Article 9 (1) states that there are forbidden all agreements that make the conclusion of contracts subject to the acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts. For instance, tying (tie-in sales) occurs where product A cannot be bought without product B, but B can be bought without A. Bundling occurs where only two products together can be bought (or, likewise, both together are cheaper than both separately).</p> <p>Banks have admitted that there many products that are tied or bundled. There is a sense that there is over-banking in the Croatian market and banks are becoming creative to earn fee income. About 16 percent of a bank's operating income is from fees imposed on banking services.</p>
Recommendation	<p>There is no law to regulate tied or bundled products in the banking sector.</p> <p>HNB should monitor the increasing competition between banks and non-bank financial institutions and ensure that no market player can leverage market power through bundling or tying or other exclusionary practices.</p> <p>There is a clear need for HUB and HNB to carry out surveys of bank products to see the nature of tying and bundling practices by banks. HNB has conducted a survey on the requirement of opening a current account as precondition for granting a mortgage loan. HNB has also conducted a survey on the practice of preconditioning mortgage loans with insurance policies from predetermined insurers. It is important that undue tying and bundling of products do not result in an increased cost for customers while curtaining their mobility.</p>
Good Practice B.5	<p><i>Preservation of Rights</i></p> <p>A bank should not exclude or restrict, or seek to exclude or restrict its legal or statutory duties in its contracts with its customers. This includes:</p> <ol style="list-style-type: none"> a. Any legal liability or duty of care to a consumer under applicable law or regulations; b. Any duties related to skill, care and diligence owed to the consumer in the provision of financial services; or c. Any liability owed to a customer, arising from the failure to exercise the degree of skill, care and diligence reasonably expected from the bank.
Description	Article 6 of the Consumer Protection Act provides that the terms of contract contrary to the provisions of this Act shall be deemed null and void.
Recommendation	No recommendation is presented.
Good Practice B.6	<p><i>Regulatory Status Disclosure</i></p> <p>Banks should disclose in all advertising (including print, television and radio) the fact that they are regulated and by whom.</p>
Description	There is no such legal requirement at the moment. However HNB is in charge of the supervision of all credit institutions according to the Credit Institutions Act, and uses different means to communicate this information to the public (e.g. press conferences, press statements, interviews)
Recommendation	HNB regulations and the Consumer Protection Act ought to incorporate this requirement.

Good Practice B.7	<p>Disclosure</p> <p>Customers ought to be provided with information that is sufficient, clear and expressed in simple language, relating to the product or service they seek. In this regard:</p> <ul style="list-style-type: none"> a. There should be clear rules on solicitation and issuance of banking services. b. Banks should ensure their advertising and sales materials and procedures do not mislead the customers. c. All marketing and sales materials should be easily readable and understandable by the average public. d. Banks should prepare a single-page Key Facts Statement, written in plain language, in respect of each of their products, and this document ought to be given to the consumer prior to the opening of an account or the drawing-down of a loan. e. Insofar as possible, the terms and conditions relating to products and services should be written in plain language, and always in a font size and spacing that facilitates easy reading.
Description	<p>General- According to Article 305 of the Credit Institutions Act: (i) a credit institution must have a contract for every service provided to a consumer, the contract must be in writing and in Croatian language, and a copy must be given to the consumer; (ii) prior to concluding the contract, the credit institution shall provide the consumer with the information needed to compare different offers in order to take an informed decision on the conclusion of the contract; (iii) prior to concluding the contract, the credit institution must give or disclose to the consumer all the relevant terms and conditions of the contract which clearly indicate the rights and obligations of the contracting parties, and if the credit institution is not unwilling to proceed to the conclusion of the contract, it must provide the consumer with a draft copy of the contract, on request and free of charge.</p> <p>a. Solicitation- Article 57 of the Credit Institutions Act prohibits any person other than an authorized credit institution to offer banking services.</p> <p>b. Advertisement- Banks need to comply with the requirement of the Consumer Protection Act.</p> <p>c. Simplicity of sales material- The anecdotal evidence suggests that simplicity is not commonly practiced.</p> <p>d. Key Facts Statement - No Key Facts Statement is provided. All banks provide brochures on products which exceed a single page.</p> <p>e. Plain language- Anecdotal evidence suggest that banks do not generally use simple or plain language and even if they attempt it, because they are not reduced to a one-page key fact document, customers hardly read the information provided by banks.</p>
Recommendation	<p>There is need to further simplify sales material and to introduce a Statement of Key Facts. There is also a need for banks to use plain language in its terms and conditions and brochures.</p> <p>The Credit Institutions Act and its bylaws, and the 2009 Consumer Credit Act, prescribe a detailed list of information that loans and deposits should include. The banking association should develop standard formats for Key Facts Statement based on these information requirements.</p>

<p>Good Practice B.7</p>	<p><i>Special Disclosures</i></p> <p>Banks should also disclose to customers specific information relating to the product and service. This requires a bank to do the following:</p> <ol style="list-style-type: none"> a. Provide upfront information relating to the accounts, including methods of computation, service charges, any other related charges, whether the product enjoys any guarantee, restrictions on inter-account transfers (any foreign-currency-exposure risk), fraud protection over accounts, procedures for closing account, fees on closure of account. b. Written information on essential credit terms, including the cost of credit expressed as an effective interest rate, especially in adjustable-rate mortgages, foreign-currency-denominated loans and home-equity lines of credit. c. Upfront information on the time, manner and process of dealing with errors in statements and transactions.
<p>Description</p>	<p>Disclosure of General Operating Conditions- Article 306 of the Credit Institutions Act requires a bank to disclose information on the terms of provision of services to consumers in an appropriate place within its business premises and in an appropriate manner.</p> <p>a. Provide upfront information – Article 306 of the Credit Institutions Act deals comprehensively with this.</p> <p><i>The information banks must provide when issuing a loan include:</i></p> <ol style="list-style-type: none"> i. applicable annual nominal rates of regular and default interest; ii. method of calculating interests (application of simple or compound interest); iii. terms and conditions under which regular and default interest rates may be changed during the period of utilization, i.e. loan repayment; iv. currency in which the principal amount is denominated or to which the principal amount is linked, and the type of the exchange rate used for payment and collection of credit; v. fees and commissions charged to a loan user by a credit institution (apart from declared nominal interest rate); vi. effective interest rates reflecting the overall loan price, calculated in accordance with the regulations of the HNB; vii. amount of principal and interest payments (including other costs) for the respective credit amount, repayment periods, number and amount of installments; viii. terms and conditions for making a deposit with the credit institution, if this is a prerequisite for loan extension; ix. possibilities and terms and conditions for offsetting loans against the deposits referred to in the previous item; x. instruments of collateral and other terms and conditions imposed by the credit institution. <p><i>Banks must disclose the following information when accepting deposits:</i></p> <ol style="list-style-type: none"> i. applicable annual nominal interest rates; ii. method of calculating interests (simple or compound interest); iii. currency in which the deposited amount is denominated or to which the deposit amount is linked; iv. terms and conditions under which interest rates may be changed; v. lowest amount accepted as deposit; vi. fees for maintaining the accounts and other similar fees and commissions, if they are charged against a depositor by a credit institution;

	<p>vii. effective interest rates reflecting the overall return on deposit, calculated in accordance with the regulations of the HNB;</p> <p>viii. basic information on deposit insurance.</p> <p>Article 74 of the Consumer Protection Act provides that the bank must indicate a statement of the conditions under which the effective interest rate may be amended.</p> <p>b. Written information on essential credit terms is required under the Credit Institutions Act (Article 306) and the Consumer Protection Act (Article 74).</p> <p>Article 78 of the Consumer Protection Act requires that, regardless of whether or not a loan offer is displayed on business premises or delivered to the consumer in some other way, any advertisement in which a person offers a loan or offers to arrange a loan contract, include a statement of the nominal annual interest rate, a statement of any other loan charges and a statement of the effective interest rate.</p> <p>Consumer information that must be provided under Article 77 of the Consumer Protection Act requires the bank to provide the consumer in writing the maximum loan amount (if any), the nominal annual interest rate and the conditions under which it can be changed, the charges imposed at the time of the conclusion of the contract, and conditions and procedure for the rescission of the contract. The same process applies to overdraft facilities according to Article 85 of the Consumer Protection Act.</p> <p>Article 86 of the Consumer Protection Act provides that any financial institution that tacitly permits current account overdrafts, must ensure that the consumer is informed of the annual interest rate and the charges applicable, and of any amendment thereof, where the overdraft extends beyond a period of three months.</p> <p>c. Upfront information on the time, manner and process of dealing with errors in statements and transactions- There are no provisions in the Credit Institutions Act or the Consumer Protection Act on the time, manner and process of dealing with errors in statements and transactions upfront.</p>
Recommendation	<p>While both the Credit Institutions Act and the Consumer Protection Act are rigorous with the requirement of disclosure, they both state different methodologies for calculating the APR. The new Consumer Credit Act follows the methodology used by the HNB and thus eliminates the discrepancy.</p> <p>Banks should provide customers with information of the complaints procedure with regards to balance or inaccuracies in accounts or transactions.</p>
Good Practice B.8	<p>Guarantees</p> <p>Banks should ensure that their advertisements do not describe a deposit, or the interest rate payable on a deposit, as guaranteed or partially guaranteed unless:</p> <ol style="list-style-type: none"> a. there is a legally enforceable agreement with a third party who undertakes to meet the demand on the guarantee; or b. it is clearly stated that the guarantee is from a connected party of the bank.
Description	<p>While it is unclear on the advertising practices, any misleading undertaking would be an offence under the Consumer Protection Act. Banks do indicate in their advertisements if a product is covered under the deposit insurance scheme which comes under the purview of HNB.</p>

Recommendation	This issue ought to be stated in a principles-based Code of Banking Practices.
Good Practice B.9	<p><i>Professional Competence</i></p> <p>Customers are entitled to deal with bank employees with sufficient knowledge and professional competence. In this regards:</p> <ol style="list-style-type: none"> a. Banks should ensure that the marketing personnel and employees of banks selling and approving transactions should have sufficient qualifications, depending on the complexities of the products they sell. b. Regulators and industry associations should collaborate to establish and administer minimum competency requirements for bank's employees.
Description	<p>Banks continuously train its employees to ensure that they are competent to deliver the services of the bank.</p> <p>The issue that surfaced during the assessment was the lack of number of staff at banks to provide the required information to customers when needed. Some of the users complained that the staff are expected to deal with as many products as 6 different types of current account for instance, that they are often unclear as to the exact terms and conditions or that they are unable to provide lucid explanation to bank customers.</p> <p>Staff selling insurance and investment products are accredited or licensed by HANFA before they can sell these products.</p>
Recommendation	Banks need to ensure that staff are sent for refreshing courses and have sufficient teller time to deal with customer queries.
SECTION C	CUSTOMER ACCOUNT HANDLING AND MAINTENANCE
Good Practice C.1	<p><i>Statements</i></p> <p>Timely delivery of periodic bank account statements and alerts pertaining to the accounts and at frequencies and in the form agreed between the customer and the bank, are important for customers. In this regard:</p> <ol style="list-style-type: none"> a. A customer should receive streamlined bank statements for each account maintained, that provide complete details of account activity in an easy-to-read format, making reconciliation easy. b. The statement should contain information on contact details for disputing any inaccuracy of statement and the period of time within which it must be done. c. When customers sign up for paperless statements, banks should ensure that the consumer is able to read and understand such online statements. d. Banks should notify customers of inactivity of accounts and provide final notice if the funds are to be transferred to the State as unclaimed monies. e. Mortgage account statements should clearly indicate the amount paid, the outstanding amount and the allocation of payment to the principal and interest and, if applicable, tax accruals.
Description	<p>a. Streamlined bank statements- Banks provide bank statements in the form agreed with the customer. Article 175 provides that a bank must notify a consumer in an agreed-upon manner, but not less than once a year, of the balance in his or her credit or deposit account, i.e. to disclose such information to consumers.</p>

	<p>b. Information on contact details for disputing any accuracy of statement- Customers are generally informed of a hotline to call for this purpose.</p> <p>c. Online statements- The mission did not hear of any complaints in this area.</p> <p>d. Notification of inactive accounts- There is no information available on this at this point in time. Customers are informed of closing of an account due to lack of funds to pay for service charge.</p> <p>e. Mortgage account statements- The statements issued by banks generally meet the requirement in good principle (e).</p>
Recommendation	While the law is clear on these issues, the enforcement of its compliance is weak.
Good Practice C.2	<i>Notification of changes in interest rates and non-interest charges</i> Consumers should be notified of changes in the interest rates paid or charged on their accounts in advance where possible, and as soon as practicable otherwise. Consumers should be notified of changes in non-interest charges at least 30 days in advance of the effective date.
Description	<p>Article 308 of the Credit Institutions Act prescribes that, where variable interest rates have been contracted, a credit institution must notify the consumer of the interest rate changes at least 15 days before the changes are effective. The Act also requires credit institutions to provide the consumer with the new amortization table in case of credit contracts.</p> <p>However, notification on changes in non-interest charges is not provided for in the Credit Institutions Act. HNB plans to include this issue in the next revision of the Credit Institutions Act.</p> <p>Some big banks notify their customers in writing and at least give a 1-month notice. The notification is also posted on the website of the banks.</p>
Recommendation	There should be standardization of the notification in the case of changes to interest and non-interest charges.
Good Practice C.3	<p><i>Consumer Records</i></p> <p>A bank should maintain up-to-date consumer records and in particular:</p> <ol style="list-style-type: none"> a. Copy of all documents required for consumer identification and profile, and consumer's contact details. b. Details of products and services provided to the consumer and all documents or applications completed or signed by the consumer. c. All correspondence with the consumer and details of any other information provided to the consumer in relation to the product or service. d. Copies of all original documents submitted by the consumer in support of an application for the provision of a service or product. <p><i>Retention of Records</i></p> <ol style="list-style-type: none"> a. Details of individual transactions should be retained for 6 years or up to the period required by the law, after the date of the transaction. b. Consumer records need not be required to be kept in a single location but should be complete and readily accessible.
Description	<i>Consumer Records-</i> Banks generally maintain up-to-date consumer records. Articles 171 and 172 of the Credit Institutions Act provide for the keeping of books, records and documentation. Amongst other things, a credit institution must organize

	<p>its operations and keep business books, business documentation and other records in such a way that it is possible to verify whether it operates in accordance with valid regulations and professional standards.</p> <p>Retention of records- Article 172 requires credit institutions to store for a period of at least 11 years:</p> <ul style="list-style-type: none"> - documents related to the opening, closing and recording of changes in payment system and deposit accounts; - documents related to other changes that were used to enter data in the credit institution's business books; - contracts and other documents related to the establishment of a business relationship. <p>The time limit of eleven years starts from the period that follows the end of the year in which the change occurred. Where the documents relate to long-business activities, they shall be kept for 11 years following the end of the year in which the business relationship was terminated.</p>
Recommendation	No recommendation is presented.
Good Practice C.4	<p>Checks</p> <p>Checks constitute an important and commonly used payments instrument in most countries and thus:</p> <ul style="list-style-type: none"> a. The issuance and clearing of checks should be based on clear legal rules, and banks should act fairly and reasonably when dealing with dishonored checks and should honor checks as long as the legal requirements are met. b. Banks should inform customers upfront of the consequences of issuing a check without sufficient funds. c. Banks should credit consumer accounts within the hold period allowed by law when a check clears and should return funds to a consumer's account within agreed number of business days if something goes wrong with a check. d. Where necessary, there should be rules and regulation to cap the charges on check issuance and clearance.
Description	Under the HNB Act (Article 29), HNB is directly responsible for the regulation and supervision of the payment system. It issues regulations and supervises the execution of payments. Since checks are rarely used, the assessment of this good practice is skipped.
Recommendation	No recommendation is presented.
Good Practice C.5	<p>Payments and Fund Transfers</p> <p>Electronic fund transfers commonly used by customers should at the minimum meet the following requirements:</p> <ul style="list-style-type: none"> a. There should be clear legal rules on the rights, liabilities, and responsibilities of the parties in electronic fund transfers. b. Banks should disclose the terms and conditions of electronic fund transfer services to the customer. c. There should be legal provisions requiring documentation of electronic fund transfers.
Description	<p>Under Article 31 of the HNB Act, the HNB regulates and supervises the systems for clearing inter-bank payment transactions and the methods of settling banks' accounts on the basis of payments executed through inter-bank systems.</p> <p>HNB also issues licenses for the operation of inter-bank payment systems, decides on parties participating in and payments executed through them, and determines or</p>

	approves fees for payments executed through such systems. Article 145 of the Payment System Act considers as violation subject to fines between HRK 20,000 and HRK 500,000 the non-compliance with legal and valid payment instructions.
Recommendation	No recommendation is presented.
Good Practice C.6	<p><i>Credit Cards</i></p> <p>Banks should ensure that important information related to credit card is given to the customers. In particular:</p> <ul style="list-style-type: none"> a. Consumers should be given personalized minimum payment warnings on each monthly statement and the total interest costs that will accrue, if the cardholder makes only the requested minimum payment. b. There should be clear rules on reporting of unauthorized transaction or stolen cards and liability ought to be made clear at the point of agreement.
Description	<p>There is a general view even amongst the bank officials that the credit card statements need to be streamlined and made simpler. The statements are very confusing to customers and sometimes misleading. Some customers do not even understand that they accrue interest on the outstanding balance even if they pay their minimum balance.</p> <p>The rules regarding liability on unauthorized transactions and stolen cards are clear and included in the terms and conditions of the contracts. The only issue here is that the font size of these terms and conditions are so small and fine, that no customer actually reads them until something goes wrong.</p> <p>In fraudulent cases, under Article 53 of the Consumer Protection Act, a trader must assume the damages resulting from the missuse of credit cards.</p>
Recommendation	HUB needs to marshal the banks to improve the clarity of credit card statements.
Good Practice C.7	<p><i>Debt Recovery</i></p> <p>The process of debt recovery should be within the procedures and process authorized by law. Thus banks should ensure that:</p> <ul style="list-style-type: none"> a. The customer is protected against abusive debt collection practices by the bank or third-party debt collectors. b. The type of debt that can be collected, the person who can collect debts and the manner in which debts can be collected is indicated to the customer at the time the transaction is entered into. c. The right of the debt collectors to contact anyone else about a customer's debt is indicated and the type of information they may seek should also be provided. <p>Legal rules should be in place to prohibit debt collectors from using false statements when collecting a debt, using unfair practices and giving false credit information to others, including a credit bureau.</p>
Description	<p>a. Legal provision on abusive debt collection- Apart from the contract executed with the customer, banks rely on the Execution Act <i>Ovršni zakon</i> (OG 57/1996 and amendments). This Act regulates the procedures whereby the courts implement the enforced collection of debts based on certified documents, unless otherwise specified by special legislation. Banks rely totally on this law to recover debt. The relevant provisions of Article 183 are listed below:</p> <ul style="list-style-type: none"> i. A debtor may, by way of a document on which his signature has been notarized, render his consent that all of his accounts which he keeps with banks be attached for the collection of a certain creditor's claim and that

	<p>payments from such accounts be made directly to the creditor in the manner stipulated in such document. Such document shall be issued in one copy and it shall have the effect of a legally effective writ of execution by which claims on accounts are attached and transferred to the execution creditor for settlement.</p> <p>ii. Other persons may, at the same time with the debtor or subsequently, assume the obligation to the creditor in the capacity of joint debtors. This may be done by rendering a written statement which contains their notarized signatures, and which materially corresponds to the debtor's statement, in the document referred to in paragraph 1 above or in the additional documents related to this document.</p> <p>iii. The creditor may, at his own choice, on the basis of the documents referred to in paragraphs 1 and 2 above, require from the bank in the manner provided for in paragraph 3 above, payment of his claim from the debtor or joint debtor, or from the debtor and the joint debtor, and the bank shall be obliged to effect payment to the creditor if there are funds available in the debtors' accounts or immediately notify the creditor that it is not possible to effect payment.</p> <p>iv. The documents referred to in paragraphs 1 and 2 above shall have the capacity of an enforcement title document pursuant to which execution against the debtor or joint debtors may be sought on other objects of execution as well.</p> <p>Use of Sureties</p> <p>While sureties are not featured in the good practice, since sureties are used in an extensive way (75% of the loan have sureties) - some of the problems associated with the lack of disclosure to sureties when they stand as guarantor for a borrower need to be looked at. Consumers have complained to the HNB that credit institutions officers do not explain them the risk of signing a financial contract as a co-signer, or "co-debtor" of another person's credit.</p> <p>Sureties do not have any information on the total indebtedness of a borrower when they become co-debtors. The bank can bring action against the sureties without exhausting the legal recourse <i>vis-à-vis</i> the borrower. There have been cases where banks imposed a penalty interest of 15% on the borrower for defaulting and at the same time attached the salary of a surety for the repayment of the loan taken by the borrower. However, in HNB's experience, charging penalty rates is uncommon.</p>
Recommendation	<p>Garnishing the salary of a surety in a bank account for repayment of salary and collecting penalty interest from the borrower at the same time is an abuse of debt recovery practices.</p> <p>HNB needs to look into this issue and require that banks lend on the creditworthiness of a customer and not the collateral in the form of security. The law should require banks in the first instance to exhaust all avenues of legal action against the borrower before taking any action against the co-debtor. In addition, creditors should be legally required to obtain a court order before attaching the salary of any person, including the co-debtor, or garnishing his or her salary in a bank account.</p> <p>HNB notes that, the issue of forbidding banks to collect the debt from all legally available sources including sureties is an area in which HNB as a supervisor could have conflict of interests. On the one hand, protection of sureties is an important issue to consider. On the other hand, the decision to forbid certain legally available means of collection could have implications on the aim of maintaining soundness</p>

	<p>and stability of financial institutions. In order to resolve the potential conflict of interests, the HNB recommended that the legal framework of debt collection should be revised for all market participants, not only for banks.</p> <p>HUB also needs to look into this matter and get banks to adopt a less abusive process for debt collection. The Code of Banking Practices needs to include this aspect and customers need to be informed before they default of the consequences of default including debt recovery process.</p>
SECTION D	PRIVACY AND DATA PROTECTION
Good Practice D.1	<p><i>Banking Secrecy</i></p> <p>Bank customers have a right to expect that their financial activities will have privacy from federal government scrutiny and others. Thus:</p> <ol style="list-style-type: none"> a. The law ought to require banks to ensure that they protect the confidentiality and security of a customer's information. b. The law ought to prohibit the disclosure of a customer's information by banking agents and contractors. c. The law or regulation should set out clearly the authorized disclosures, including those required by law. d. When a customer permits the disclosure of information, banks should undertake not to sell or share personal information to outside companies that are not affiliated with the bank or for the purpose of telemarketing or direct mail marketing. e. The law ought to allow a customer to stop or "opt out" of certain information sharing, and the banks ought to inform the customers of their option upfront.
Description	<p>a. Protection of confidentiality- Article 168 of the Credit Institutions Act mandates a credit institution to protect the confidentiality of all information, facts and circumstances which it has acquired on the basis of providing services to clients and performing operations with individual clients. Under Articles 168 and 169, credit institutions shall be bound by the obligation of banking secrecy, as well as the credit institutions' board members, shareholders and employees and other persons who, due to the nature of their business with or for the credit institution, have access to confidential information.</p> <p>According to Article 367 of the Credit Institutions Act, a legal entity that contravenes the provisions on bank secrecy is subject to a fine between HRK 500,000 and HRK 1,000,000, whereas a responsible person of that legal entity or a natural person shall be fined between HRK 25,000 and HRK 100,000.</p> <p>b. Use by third parties- Under Article 169 of the Credit Institutions Act, credit institutions' board members, shareholders and employees, and other persons who, due to the nature of operations they perform with or for the bank, have access to confidential data referred to in Article 98 of this Law, may not disclose such data to third parties, use such data against the interest of the credit institution and its clients, or enable third parties to make use of such data.</p> <p>According to Article 170, HNB, courts and other competent authorities may use the confidential data they have obtained pursuant to paragraph 3 of Article 169 of this Act, exclusively for the purpose for which the data have been acquired, and may not disclose these data to third parties or enable third parties to learn and make use of</p>

	<p>such data, except in cases prescribed by law.</p> <p>c. Permitted disclosures- The exceptions to banking secrecy are listed in Article 169 (3) of the Credit Institutions Act. Some of the major exceptions are listed below:</p> <ol style="list-style-type: none"> a. if a client explicitly agrees in writing; b. if the disclosure is necessary for criminal proceedings or requested or ordered in writing by the competent court; c. if the disclosure is necessary for the purposes of the Office for the Prevention of Money Laundering; d. when disclosed to HNB, Financial Inspectorate or other supervisory authority for the purpose of supervision within their competence; e. if disclosed to a legal entity established for the purpose of collecting and providing information on the creditworthiness of legal and natural persons; f. when disclosed to tax authorities and at their written request; g. if disclosed to the deposit insurance and pursuant to the law that regulates deposit insurance. <p>d. Prohibition of sale of data- According to Article 9 of the Act on Personal Data Protection, the data controller (the bank) must inform the data subject (the customer) about the identity of the data controller, the purpose of the data collection and to what other users the data is disclosed. However, information can be shared within the same company group.</p> <p>e. There is an opt-in obligation (no opt-out), which is an adequate practice to inform or educate the consumer about information sharing. There is no prohibition of information disclosure to third parties as long as the consent is obtained and the consumer informed about such information sharing.</p>
<p>Recommendation</p>	<p>Information sharing within the same company group: At the moment, consumers are not informed about the information sharing within company groups. This could lead to the problem where a subsidiary of a banking group shares personal data with the parent company (a bank) or several shareholders and they may share it with the credit bureau or other entity. Further, personal data can be exported to other countries, and the data subject has no knowledge and control about this international exchange. Consumers ought to be informed about such information sharing and have the right to opt out (as required for marketing purposes, for instance). HNB is considering to include a separate disclosure requirement on information sharing during the next revision of the Credit Institutions Act.</p> <p>Improvement of upfront consumer and co-debtor education: The authority in charge may facilitate the improvement of upfront information given to the consumer, before a contract is signed. According to Article 9 of the Act on Personal Data Protection, consumers do have the right to know:</p> <ul style="list-style-type: none"> - the purpose of processing, - the identity of the personal data filing system controller, - the data users or personal data user categories, - that data provision is voluntary or mandatory. <p>Further, consumers should be informed about the implications of third-party data sharing, for which written consent should be obtained. This should hold for all parties that are subject to data processing, especially also potential co-borrowers who are obliged to provide personal information and on which creditworthiness tests are performed. This should be included in the credit contracts or be concluded with the borrower or co-debtor on an extra form.</p>

	<p>Publication of model forms and clauses: The EC creates legal security by publishing standardized clauses and model contracts (Commission Staff Working Document on the Implementation of the Commission Decisions on Standard Contractual Clauses for the Transfer of Personal Data to Third countries 2001/497/EC and 2002/16/EC). For information processing and sharing, this could serve as example for the Personal Data Protection Agency.</p>
<p>Good Practice D.2</p>	<p>Credit Bureaus</p> <ol style="list-style-type: none"> a. Banks should ensure the accuracy and credibility of the information that it shares. b. Credit bureaus should comply with the timeliness of updating information of consumers. c. Customers' records should be kept confidential and only be provided for permitted and lawful purposes. d. There ought to be clear procedures and rules on the retention period of credit records, and customers should be informed about the retention period. e. Customers should have access to their credit reports and be provided with a copy of their reports on conditions that are transparent. f. There should be established procedures for correcting mistakes on a customer's credit report.
<p>Description</p>	<p>HUB has submitted a draft credit bureau law to the Ministry of Finance. The law is to provide clear and express legal basis for the operation of the credit bureau run by HUB and also other consumer protection rules associated with credit bureau.</p> <p>The law applicable to the processing of personal financial information is the Act on Personal Data Protection and the exception to banking secrecy in Article 169 of the Credit Institutions Act provides the legal basis for the operation of the only credit bureau in Croatia, which is owned and run by HUB.</p> <ol style="list-style-type: none"> a. Accuracy and credibility of data- According to Article 6, personal data must be accurate, complete and up-to-date. b. Timeliness- This is required by the same Act. The software system allows an updating cycle of 30 days. In more advanced systems, there is on-going (live) information update, which is quickly becoming the industry standard. c. Confidentiality- The duty to confidentiality and adequate protection of personal information is defined in Article 18 of the Act on Personal Data Protection by requiring that data filing systems controllers shall be obliged to adequately protect data from unauthorized alteration or access. d. Retention period- The law does not state retention periods and there has not yet been a decision of the Personal Data Protection Agency. In Article 6 of the Act on Personal Data Protection, it is stated that personal data shall be relevant for the accomplishment of an established purpose and shall not be collected in quantities more extensive than necessary for achieving the purpose defined. e. Access to personal data by customer- The access to personal data (whether stored in a credit bureau or a bank) is regulated by Article 19 of the Act on Personal Data Protection. There are firm time frames, such as 30 days for the data controller to respond. Data controllers are required to respond to a request (Articles 19-20) and to change the information if it is incorrect or outdated. The individual subject to the filing must be informed within 30 days of such changes. If changes had to be made, the consumer is furnished with a credit reporting free of charge.

Recommendation	<p>Clarification of Data Retention Periods: At the moment, there are no legal provisions in the Act on Personal Data Protection for erasing information in the credit bureau, be it positive or negative information. Since data retention periods do not exist, consumers cannot be informed about them. The Personal Data Protection Agency should clarify Article 6 of the Act on Personal Data Protection, where it is stated that personal data can be collected for the accomplishment of a purpose (credit issuance in this context) and shall not be excessive. The Authority should communicate clear data retention periods. The decision can be published in the Official Gazette. Retention periods should be based upon international best practices or the statistical prediction power of information and shall not be kept longer than this predictive power lasts.⁴</p> <p>Information of consumers and co-borrowers: Each contractual party has to be informed about the retention periods before concluding the contract. This holds for the consumer (as borrower) as well as all co-borrowers in plain and understandable language. Again, the Personal Data Protection Agency may play a greater role in educating the public about credit information sharing. Examples of this can be derived from the UK Information Commissioner or the U.S. Federal Trade Commission.</p> <p>Fees charged on credit reports shall be reasonable and transparent: The fees charged to the consumer for obtaining the credit report shall be cost-based and monitored by the Competition Authority, because of the monopoly status that the credit bureau currently enjoys. However, this should take into consideration that the system has operated only since March 2007.</p>
SECTION E	DISPUTE RESOLUTION MECHANISMS
Good Practice E.I	<p>Unfair Practice and Deceptive Acts</p> <p>Legal provisions to protect consumers in these areas are crucial. Thus:</p> <ol style="list-style-type: none"> a. There should be clear legal provisions that define unfair or deceptive acts or practices of banks in connection with provision of credit and other banking services to the consumers. b. For effective enforcement, the legal provisions ought to provide for consumer complaint procedures, structures and the duration within which complaints ought to be made and resolved.
Description	<p>Unfair and Deceptive Practices</p> <p>The Consumer Protection Act clearly defines these terms and also includes aggressive selling as a prohibited act.</p> <p>Unfair Practice- The law makes a distinction between individually negotiated contracts and those which are not. Notion of unfair contractual term under Article 96 of the Consumer Protection Act. Under Article 96, a contractual term which has not been individually negotiated shall be regarded as unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the contractual parties' rights and obligations, to the detriment of the consumer. The Article is very comprehensive in defining unfair practices. Article 97 lists a myriad of circumstances when a contract can be deemed unfair.</p> <p>Misleading Action - Article 110 of the Consumer Protection Act deals with misleading actions. A business practice shall be regarded as misleading if it contains false information or if in any way (including overall presentation) it deceives or is</p>

⁴ Retention periods differ from country to country. Positive information might be maintained up to 2 years, negative information up to 6 years. Retention periods should be based upon statistical power of data.

	<p>likely to deceive the average consumer, and if in either case it causes or is likely to cause a consumer to make a decision that he or she would not have made otherwise. Also a commercial practice shall be regarded as misleading, even if information is true, provided that it will lead or is likely to lead the average consumer to take a transactional decision that he or she would not have taken otherwise.</p> <p>Article 111 provides further that a business practice shall be regarded as misleading if, in a specific case, and taking into account all features and circumstances of such practice, as well as the limitations of the specific communication medium used, it does not contain material information which, depending on the context, the average consumer needs in order to make a transactional decision based on full information and thereby causes or is likely to cause him or her to make a transactional decision that he or she would not have made otherwise.</p>
Recommendation	<p>The legal provisions in the Consumer Protection Act are very comprehensive and robust when it comes to consumer protection in the areas of financial services. Nonetheless, the enforcement thereof is stymied by lack of co-ordination, lack of designated authority, lack of competency and also lack of appropriate process for lodging complaints by consumers.</p>
Good Practice E.2	<p><i>In-house or Internal Mechanism</i></p> <p>In-house or internal mechanism to resolve customer complaints and disputes are critical to maintain customer confidence and harmonious relationship between banks and customers.</p> <ol style="list-style-type: none"> a. A bank should have in place a written procedure for the proper handling of complaints. b. A bank should acknowledge each complaint in writing within 5 business days or a reasonable period from the time the complaint was received. c. A bank should provide the complainant with the name of one or more individuals appointed by the bank to be the complainant's point of contact to resolve the complaint. d. A bank ought to provide the complainant with a regular written update on the progress of the investigation of the complaint. e. A bank should advise the complainant in writing, within 5 business days of the completion of the investigation of a complaint, the outcome of the investigation. f. When a bank receives a verbal complaint, it should be treated as a written complaint if possible and a bank should not require that a complaint be put in writing. g. A bank should maintain a record with sufficient detail of all complaints subject to the complaints procedure. h. These records should be reviewed from time to time by the regulator.
Description	<p>General requirement on complaints- The Credit Institutions Act obliges each credit institution to designate at least one person for receiving customer complaints. Article 8 of the Consumer Protection Act requires every trader to enable consumers to file written complaints at the place of sale or through mail, facsimile machine or electronic mail and shall respond to them not later than 15 days from the receipt of a complaint. Every trader should keep records of consumer complaints referred to in paragraph 1 of this Article for at least one year as of the day of the receipt of the complaint.</p> <p>Generally all banks handle many complaints daily and have a mechanism to do it.</p>

	<p>One bank also has a department designated to deal with recording customer complaints, resolve complaints through streamlined and time-bound procedures, collate data and submit it to the management. Customers are provided with forms to lodge complaints at every branch. From the assessment, it was clear that not all banks were as progressive on dealing with customer complaints.</p> <p>Under Article 309 of the Credit Institutions Act, HNB within its competence of banking supervision shall monitor whether a credit institution complies in general with good business practices, particularly those related to disclosure of general operating conditions and contracts concluded with its clients. However, HNB shall not be obliged to respond to individual complaints of credit institutions' clients.</p> <p>The banks informed that HNB does not review the complaint records of banks to determine whether banks are complying with the Consumer Protection Act even though the Credit Institutions Act requires HNB to do so.</p> <p>HNB notes that it plans to meet with each and every credit institution's official designated to deal with customer complaints. These meetings will enable HNB to evaluate the procedures for resolving customer complaints and the nature of complaints. In the future, HNB plans to conduct a point-in-time survey of the procedures used to handle complaints and the nature of complaints in the entire banking system. Based on the findings of the survey, HNB will determine if it is necessary to introduce mandatory reporting for system-wide analysis of complaints.</p>
Recommendation	<p>The Code of Banking Practices ought to make the compliance with the good practice listed above, mandatory.</p> <p>a. Written procedure- All banks should adopt a written procedure on dealing with complaints.</p> <p>b. Acknowledgement of complaint- Banks should acknowledge complaints at least within 5 working days.</p> <p>c. Focal point for customers- Since the internal structure of a bank cannot be figured out by a customer, banks should disclose the focal point/contact person for customers to interact on complaints lodged.</p> <p>d. Update on progress- While some problems get resolved quickly, others may take time. It is necessary that the bank keeps the customers informed of the progress at least every 20 working days or monthly.</p> <p>e. Notification of completion of investigation- It is necessary for banks to inform the customer of the outcome, as soon as possible or at least not later than 5 days after the completion of an investigation.</p> <p>f. Verbal complaint- For effective complaints handling, verbal complaint ought to be treated as written complaints. Some banks receive complaints through phone and keep details in writing. Asking customers to put all complaints can effectively shut out many customers.</p> <p>g. Record of complaint- HNB ought to require banks to keep a streamlined report of complaints.</p> <p>HNB should periodically review the records of customer complaints in order to identify if there are any systemic problems in the banking sector or vulnerabilities in the internal management system of the banks. HNB's planned meetings with credit institutions' officials dealing with customer complaints are steps in the right direction.</p>

	<p>Consideration should be given to setting up a Financial Consumer Complaints Center, as a single location where consumers can easily submit inquiries and complaints, and as an entity responsible of ensuring that complaints are properly addressed by the financial institution and the government authorities. For further detail, please see Volume I.</p>
Good Practice E.3	<p>Formal Dispute Settlement Mechanisms</p> <p>A formal, out-of-court system should be in place to enable consumers to seek cheap, efficient, independent third-party recourse in the event they cannot resolve a complaint with a bank. It is thus critical that:</p> <ol style="list-style-type: none"> a. An ombudsman or its equivalent, adequately funded by the State or regulator, or jointly with the industry should be in place to deal with consumer complaints. b. The role of an ombudsman or its equivalent should be widely publicized in the most appropriate manner. c. The impartiality and independence of the ombudsman or its equivalent should be ensured to the public through an appropriate governance structure. d. The enforcement mechanism of the decisions of the ombudsman or equivalent institution and the binding nature of its decisions on banks should be in place and publicized. e. The ombudsman or its equivalent should collect necessary data and share the analysis of such data with the State, regulator and industry to enable better consumer protection policies.
Description	<p>General Law</p> <p>Article 15 of the Civil Obligation Act provides that anyone who considers that his right is violated shall be entitled to protect and exercise such right through courts, unless decision-making powers are vested by law in another authority.</p> <p>Legal Requirement under the Credit Institutions Act- Article 309 of the Credit Institutions Act deals with complaint procedures. It provides that a consumer who considers that a credit institution is not compliant with the terms and conditions of a contract on the provision of banking and other financial services, he or she may file a complaint against the credit institution with the following:</p> <ol style="list-style-type: none"> i. competent organizational unit within the credit institution, ii. organizational unit of the credit institution responsible for addressing consumer complaints iii. internal audit of the credit institution, iv. consumer protection association, v. competent regional office of the State Inspector's Office, vi. other competent authorities. <p>Out-of-court settlement under the Consumer Protection Act- Article 130 of the Consumer Protection Act regulates the out-of-court settlement of consumer disputes before the Conciliation Centre of the Croatian Chamber of Economy, Mediation Centre of the Croatian Chamber of Trades and Crafts, Mediation Centre of the Croatian Employers' Association, the Court of Honor of the Croatian Chamber of Economy and the Court of Honor of the Croatian Chamber of Trades and Crafts. The conciliation procedure is to be carried out in line with the Rules of Procedure of the said entities.</p> <p>HUB is in the process of setting up the process of handling disputes between customers and banks through the Mediation Centre run by the Croatian Employers' Association. It plans to approve a list of mediators for banking cases.</p>
Recommendation	<p>Banking Association's Proposal- HUB intends to use the Mediation Centre run</p>

	<p>by the Croatian Employers' Association and will approve a list of mediators. Customers will be able to use the Mediation Centre to resolve their claims.</p> <p>While HUB must be commended on their commitment to comply with the requirement of the Consumer Protection Act, it is important for it to address a number of issues related to this:</p> <ol style="list-style-type: none"> a. The Mediation Centre run by the Croatian Employers' Association has only one mediator, who specializes in labor matters. The centre had only 2 mediation cases in 2007. b. Lawyers represent clients in mediation process and they have been boycotting the mediation centres as it affects their income (given the one-session rule). c. The Mediation Centre does not have any own institutional arrangement and relies on the Croatian Employers' Association office to carry out its mediation services. In this regard, the Employers' Association did indicate that only members can use the Mediation Centre run by it and that banks have not been active members of the Association. <p>Essential output of out-of-court settlements- While the choice of the institution to deal with dispute settlement mechanisms ought to be a country's own choice, international good practices in this area clearly requires the following elements to be present in such an institution to ensure effective protection to consumers. The institution should:</p> <ol style="list-style-type: none"> a. Be permanent, perceived as independent and competent. b. Be accessible to consumers – thus it should be a low cost mechanism. c. Have means to sanction the bank that does not comply with its decision, either through fines or "name-and-shame process". d. Not only settle disputes between customers and banks or other financial institution, but also compile and analyze data on disputes. e. Publish statistics on number of complaints, types of complaints and their final resolution f. Play the role of educating consumers by providing information to them. g. Cooperate and communicate frequently with the financial regulators, adding substantive value to the consumer protection regime. h. Have sufficient resources through fees collected from participating institutions and government. <p>Given the above requirements for an effective dispute settlement mechanism, it is important for the authorities to evaluate carefully whether the mediation centre being proposed for the banking sector, which makes up to 80% of the financial system, will be effective.</p> <p>It may be more expedient to consider setting up an independent statutory Ombudsman or its equivalent. In the medium term, it would be more appropriate to have a single dispute settlement body for financial services - including insurance and investment products. It would be more cost efficient and it can also be funded jointly by the government, regulators and the industry.</p>
SECTION F	DEPOSIT GUARANTEE
Good Practice F.1	<p><i>Deposit Protection</i></p> <p>Bank consumers should be protected during the insolvency of a bank. In this regard:</p> <ol style="list-style-type: none"> a. There should be an effective mechanism in place for the pay-out of deposits protected by the guarantee on timely manner.

	b. In the absence of deposit insurance, there should be an effective and timely payout mechanism during the process of insolvency of a bank.
Description	<p>The State Agency for Deposit Insurance and Bank Rehabilitation (DAB) was established in accordance with the Law on the State Agency for Deposit Insurance and Bank Rehabilitation (OG 44/1994 and amendments), as a specialized financial institution for deposit insurance in banks and saving banks, and for implementation of bank rehabilitation procedures.</p> <p>The founder of DAB is the Republic of Croatia which guarantees the commitments and liabilities of the Agency. Under the Law on Deposit Insurance (OG 177/2004 and OG 141/2006), deposit insurance is obliged for all banks and saving banks which operate in the Republic of Croatia and which have working approval from HNB.</p> <p>The maximum amount of coverage proscribed for an insured savings deposit is HRK 100,000. In the event of bankruptcy of a bank or a savings bank, DAB pays off to every insured depositor his savings deposit up to the amount of HRK 100,000. If the total amount of the savings deposit exceeds the proscribed insured amount, the difference over HRK 100,000 and up to the total amount of a natural person's deposit DAB will report in the bankruptcy mass.</p> <p>Savings deposit in foreign currency will be settled in Kuna at the middle exchange rate of HNB for the specific currency on the commencement day of the bankruptcy procedure.</p> <p>In the event of bankruptcy of a bank or savings bank, DAB is obliged to start paying off the insured savings deposits within 180 days from the commencement date of the bankruptcy procedure published in the Official Gazette.</p> <p>Article 91 of the Credit Institutions Act provides that if a foreign credit institution does not enjoy a deposit insurance scheme in its home country or its insurance coverage is less than HRK 100,000, then it shall join the Croatian deposit insurance scheme. This provision protects customers in the event a foreign bank operating in Croatia fails.</p>
Recommendation	No recommendation is presented.
Good Practice F.2	<p><i>Insolvency</i></p> <p>In countries where there is no deposit insurance, depositors may lose their life savings to protracted and costly insolvency process. As such:</p> <ul style="list-style-type: none"> a. Depositors ought to enjoy higher priority than unsecured creditors in the liquidation process of a bank. b. The legal provisions on the insolvency of banks ought to provide for expeditious, cost-effective and equitable provisions to enable the timely refund of deposits to depositors.
Description	<p>HNB has oversight over winding-up of banks.</p> <p>Article 278 of the Credit Institutions Act ranks deposit claims after claims of the employees and claims of the HNB on the bank.</p>
Recommendation	No recommendation is presented.
SECTION G	CONSUMER EMPOWERMENT
Good Practice G.1	<i>Formal Consumer Information Dissemination and Assistance</i>

	<p>The level of consumer literacy and awareness needs to be raised as it results in better consumer protection. Thus-</p> <ol style="list-style-type: none"> a. The government, regulators and industry ought to put in place formal consumer information dissemination and assistance to improve consumer awareness and knowledge. b. Public education on consumer awareness in the area of banking by non-governmental organizations (NGOs) ought to be encouraged and funded. c. The government should develop a strategy for including financial education as part of the general education curriculum in primary schools.
Description	<p>a. Nothing was evident on the steps taken by the Government or HNB in the areas of formal consumer information.</p> <p>b. The government has funded 4 NGOs to run the Consumer Counseling Centres (in Zagreb, Split, Osijek and Pula). The other 22 NGOs dealing with consumer protection issues suffer from lack of financial and human resources, and especially from lack of expertise in financial sector issues. There is a financial sector expert in the Zagreb Centre who provides guidance and information to consumer. The others however do not have anyone specializing in financial sector matters.</p> <p>HUB carried out a public literacy campaign to educate customers on personal finance management, with the support of UNDP and the initial collaboration of the consumer NGO <i>Potrošač</i>. They had 1500 participants in 8 regions and substantive coverage in the press and television which reached out to customers who could not attend. The Association plans on doing the same this year with a bigger group.</p> <p>c. There is no plan to include financial education in the curriculum of primary schools.</p>
Recommendation	There ought to be better collaboration between HNB, HUB and consumer protection authorities in this area. HUB ought to look into ways of using the NGOs to deliver their awareness program.
Good Practice G.2	<p><i>Financial Literacy through the Media</i></p> <p>Mass media is an effective channel for improving consumer knowledge and awareness of consumers. Thus:</p> <ol style="list-style-type: none"> a. Print and broadcast media should be encouraged to actively cover issues related to retail financial products. b. Government, regulators and/or industry association should provide sufficient information to the press to facilitate analysis of related issues. c. Government, regulators, NGOs and media should collaborate to improve consumer literacy.
Description	<p>a. Consumer issues get featured in a TV program called "Good Morning Croatia". There are also weekly programs that deal with consumer protection issues. However, the general view is that not many journalist or media personnel have the competence in financial sector matters to make a meaningful impact on financial services consumers. The media is often accused of sensationalizing issues instead of providing meaningful insight to issues.</p> <p>b. Banks often provide information through the newspaper on changes in fees and charges. Apart from that, there is very little collaboration between the media and banks.</p>

	c. There is no evidence of collaboration between government, HNB and the media to improve financial literacy of consumers.
Recommendation	<p>There is a clear need for improving the awareness and competency level of media personnel. HNB and HUB should first train the media on critical financial service matters to enable them to analyze and provide opinions to consumers.</p> <p>Steps should be taken to initiate the collaboration between these institutions. Various strategies can be developed and the media can be partners with HUB or HNB to improve the delivery of financial literacy to consumers. HNB is planning to develop a program of permanent education of journalists that cover financial issues.</p>
Good Practice G.3	<p><i>Formal Consumer Information Resources</i></p> <p>Consumers should be encouraged to look for and provided with independent information on costs, risks and benefits of financial products and services. In this regard, the NGOs, regulators or industry either on their own or through collaborative processes should publish and distribute information resources on banking services or products.</p>
Description	HUB publishes a tariff comparison but it does not serve a very useful purpose as it is too generalized and reflects the interest rate and charges the banks are willing to be bound by for the publishing period.
Recommendation	There is a need for an NGO or institution to collate these data and publish them in a way that consumers can make informed decisions on interest rates and charges.
Good Practice G.4	<p><i>Establishing a Baseline for Measuring Financial Capability</i></p> <p>It is important to ensure that financial consumer protection, education and information initiatives are targeted. Thus:</p> <ol style="list-style-type: none"> a. It is necessary to measure financial capability/ literacy by way of a large-scale market research project, and to repeat that measurement periodically. b. Steps should be taken by the Consumer Protection Authority, regulators, NGOs and industry to collect data to identify the most vulnerable consumers.
Description	<p>The assessment did not reveal any such initiative. HUB collected some basic data on consumers during their public awareness program, but this was an ad hoc collection of data. There has been no large-scale survey on financial sector consumers so far.</p> <p>The same can be said with regards to vulnerable consumers. The only indicators that can be used are loan default rates. However there are no details of the level of indebtedness and most vulnerable groups in the society.</p>
Recommendation	Either HNB or the Consumer Protection Department under the Ministry of Economy, Labor and Entrepreneurship ought to carry out a large-scale financial literacy survey.
SECTION H	COMPETITION AND CONSUMER PROTECTION
Good Practice H.1	<p><i>Competition Policy</i></p> <p>The Competition Authority or competent body ought to monitor the banking system to ensure that anti competitive behavior does not result in increased cost and reduced choices for consumers.</p>

Description	<p>Article 71 of the Credit Institutions Act provides for provisions on market competition. HNB is in charge of monitoring the operations of credit institutions, which might result in preventing or restraining competition in the provision of banking or financial services. As supervisory authority for market competition in the area of financial services when they are offered by credit institutions, HNB is responsible for monitoring the market conduct of credit institutions, analyzing market concentration at the local and national level, and conducting other market analyses, which may be followed by in-depth investigations and other (regulatory and non-regulatory) actions. While monitoring the freedom of market competition and establishing whether it has been limited, the HNB shall request the Competition Authority to express its views.</p> <p>In the event that it establishes that the freedom of market competition has been limited during the provision of banking services, HNB is obliged to implement measures to ensure effective market competition. When monitoring activities of credit institutions regarding market competition, HNB shall apply the regulations governing the rules and system of measures for the protection of market competition.</p> <p>HNB follows all EU legislation on this issue and participates in seminars and conferences worldwide.</p>
Recommendation	No recommendation is presented.
Good Practice H.2	<p><i>Cooperation between Regulators</i></p> <p>Financial regulators and competition authorities should be required to consult with one another for the purpose of ensuring the establishment and pursuit of consistent policies regarding the regulation of financial services.</p>
Description	<p>HNB and the Competition Authority signed a Memorandum of Understanding in 2003 regarding cooperation in the area of market competition. According to that Memorandum HNB exchanges information and documents, and collaborates with staff education. For each decision related to competition in the banking sector, HNB requires the opinion of the Competition Authority, according to the Credit Institutions Act.</p>
Recommendation	No recommendation is presented.

Croatia: Consumer Protection in the Non-Bank Credit Institutions Segment

The non-bank credit institutions segment in Croatia encompasses consumer finance companies, leasing firms, credit card companies and pawn shops. This section reviews the main institutions of relevance (excluding pawn shops, for instance) that are active outside of the banking segment of the financial services market. By mid-May 2007, approximately 110 savings and loans cooperatives had to decide whether they would be liquidated or re-register as savings banks (that fall under the Credit Institutions Act) or credit unions (which are in compliance with the Credit Unions Act). This action makes these institutions part of the banking sector of Croatia and subject to HNB supervision⁵. This section only reviews institutions which are not under HNB supervision and which are not banks, but still provide credit facilities to consumers. It is worth to note that we use the term “non-bank credit institution” synonymously with “non-bank financial institution”. The Credit Institutions Act however defines “credit institutions” as a different term than “financial institutions.”

Introduction

The leasing market continues booming in Croatia, but mostly for commercial purposes. Leasing has been booming in Croatia over the past years and continues to constitute a large share in financial intermediation. Leasing operations also continue to have an impact on the growth of foreign debt of Croatia. The Leasing Act (OG 135/2006) enacted in 2006, under its Article 8(4) prohibits leasing companies from providing loans to individuals and legal entities (a widespread practice before 2006). This was a loophole to escape the HNB’s reserve requirement.⁶ The industry is considered to be competitive and comparable with other European countries. Under Article 72(1) of the Consumer Protection Act, hiring (leasing) contracts are exempted from this Act’s provisions, except in the case, where the title ultimately passes to the hirer at the end of the contract periods (hire-purchase). The Leasing Act, which covers financial leasing and operating leasing, provides some basic provisions for the content of a leasing agreement,⁷ the termination of leasing agreements due to the failure of delivery and other consumer protection provisions discussed below. The Registry of Leased Assets, available on HANFA’s website, provides consumers with free access to information on the duration of leasing agreements and detailed descriptions of leased assets.

Consumer finance is just starting to develop in Croatia. The development of non-bank credit institutions which provide loans for consumption purposes is only in its infancy stage in Croatia. Consumer credit has been issued for years by banks, but only recently non-bank credit institutions have also started to provide consumer finance (they are not deposit-taking institutions and henceforth do not fall under supervision of HNB). Financing contracts of these firms are directly offered to the consumer through a merchant such as a car dealer or a furniture shop. In Croatia, the segment encompasses two companies which directly provide financial facilities, so-called “*zajam*”.

⁵ Croatian National Bank, Macroprudential Analysis No. 5 - September 2007.

⁶ International Monetary Fund, Republic of Croatia—2006 Article IV Consultation Preliminary Conclusions. November 8, 2006.

⁷ Including identifiers of the contract parties, specification of leasing operations, total amount of fees and monthly payments (Leasing Act, Art. 36).

Credit card issuance is picking up, with more than 1 million credit cards in circulation.

There are two card-issuers, which are owned either by banks or bank groups. There are approximately 8.7 million card holders,⁸ 7.2 million with debit cards and 1.5 million with credit cards. There is an increasing combination of products, because consumer loans (including installment and cash loans) are also operated through these cards. The number of card holders that pay off 100% each month stands between 30-40% and 80% depending on the type of credit card. The rest of card holders use the revolving facility insofar as they only pay off a minimum payment each month, where the debt accumulates over time. This share is quickly rising, as one card company confirmed.

Repayment rates might decline in the future as more customers are priced into the market.

Repayment rates are high, defaults and delinquencies together stand at an estimated 3% on average, although one company stated that for the future it expects that 5-8% of clients will be under some kind of provisioning.

Increasingly, albeit from a very low level, merchants are offering loan contracts for furniture, kitchen goods and cars.

One large retailer stated that 20 percent of clients paid cash and 80 percent with credit cards or via consumer loans. If these loan contracts require repayment within a period not exceeding 12 months by a number of not exceeding 4 installments, these are excluded from the consumer protection provisions of chapter IX in the Consumer Protection Act. This specific rule of exclusion reflects the scope of the EU Consumer Credit Directive.

Consumer Protection Institutions

Applicable regulation for consumer finance companies is evolving. It is expected that the consumer finance business of non-bank credit institutions will grow in the future as new international players might enter the Croatian market. Thus, competition will increase. The consumer finance segment consists of commercial companies that are subject to the *Company Act* (Official Gazette 111/1993, OG 34/1999, OG 118/03), the *Consumer Protection Act* (OG 125/2007), the *Act on Personal Data Protection* (OG 103/2003, amended by OG 118/2006 and OG 41/2008) and the *Competition Act* (OG 122/2003). They are also subject to the new *Consumer Credit Act* (OG 75/2009), in force starting from 2010. The Credit Institutions Act (OG 117/2008) does not apply to them, because they are not deposit-taking financial institutions. The Credit Institutions Act defines “financial institutions” (Article 9) as companies that are not “credit institutions” (defined in Article 2) and that are primarily active in one of several fields, including consumer credit, mortgages, credit reference services and financial leasing. Consumer protection provisions (Arts. 304-310) only apply to credit institutions as defined by this Act. Thus, the only “supervisory” authorities for consumer finance companies are the Tax Department, FINA for balance sheet reporting and the State Inspectorate for consumer protection.⁹

Leasing regulations are in place and supervised by HANFA. Leasing companies, on the other hand, are subject to HANFA supervision. In chapter XV of the Leasing Act, there are some consumer provisions, such as claim settlement, where it is stated that the consumer may submit a claim to the leasing company, a consumer protection association, the competent branch of the State Inspectorate or other competent bodies. However, there are no timelines for response and no coordination mechanisms mandated.

⁸ The estimate encompasses all types of payment cards, such as debit and credit cards, most of which are directly issued by banks. The source of the estimates is industry officials interviewed in Croatia.

⁹ Commercial companies are subject to the VAT system, whereas banks are exempted.

Disclosure and Sales Practices

Supervisory guidance is needed for facilitation of consumer finance. Because of the very early stage of development of this segment in Croatia, providers are in the process of stabilizing operations and becoming compliant with the legal requirements for consumer protection. The business currently encompasses a negligible market share, so that the supervisory authorities could further facilitate its development by guiding the industry on implementation of rules applicable to them. Especially, the rules on consumer loan contracts (Consumer Protection Act, Arts. 71-86) are applicable, outside of the exemptions (Article 72). For instance, according to Article 74, a consumer loan contract must include specific terms and conditions, among them nominal interest rate, loan amount, dates of installment and total loan cost. The State Inspectorate is in charge of enforcing rules of the Consumer Protection Act together with competent authorities.

Privacy and Data Protection

Financial privacy is granted across industries. There are several data protection provisions in the different laws. However, the most important statute is the Act on Personal Data Protection. There is no formal decision from the European Commission (EC) about the adequacy of data protection in Croatia, however at a recent visit EU representatives informally stated that the law was in accordance with the EU law in all crucial elements. The Credit Institutions Act requires bank secrecy (Arts. 168-170), but these only apply to credit institutions. The Leasing Law mandates confidentiality of information in Arts. 85-86. The latter holds that there are also cases of exemptions, such as written consent, in cases of court requests and litigation procedures, money laundering prevention or the execution of claims. Credit reporting does not constitute an exemption and thus cannot be conducted at the moment by leasing companies.

At the moment, consumer finance companies and leasing companies have no access to the credit bureau. HROK is the only private credit bureau in the Croatian market and it stores information on 2.7 million persons (an estimated coverage of 95% of the credit market). The firm is a limited liability company, owned by 20 banks.¹⁰ Although there is no obvious legal obstacle, consumer finance companies are not part of the system. It has been communicated to the Mission that there is some hesitation to include them. Whereas the Credit Institutions Act explicitly allows exemptions from bank secrecy (and thus credit reporting) in Arts. 169 and 170, there is nothing comparable for consumer finance companies or for leasing companies as discussed above. Potentially, exemptions are granted in terms of written consent of the client concerned, however some uncertainty remains. It was also stated that a new law on credit registers in Croatia might bring clarification. However, the work on this law has not progressed recently (further discussed below). The Credit Institutions Act also establishes that HNB may collect information from credit institutions (Article 319) and that further methods of collection may be prescribed by HNB.

There is little knowledge on information sharing in Croatia. Parallel to the HROK, there is a list of non-payers called the *Crna Lista* or SRI (Information Exchange System). The Croatian Banking Association's (HUB) Information Exchange Committee is in charge of this list and operates on behalf of banks, which at the same time are participants of the SRI. Debtors are included based upon two criteria: (i) time period and (ii) unpaid debt. The database is subject to the Act on Personal Data Protection. According to the IMF it was established in 2004, as a first

¹⁰ The company operates independently from the banker's association.

step to set up HROK, but it now works in parallel. There is no automatic trigger between HROK and SRI, as both systems work independently from each other (they use different IT platforms). Debtors can inquire with their banks if they would like to know about their file in SRI. According to a GfK survey 30% of respondents never heard of the *Crna Lista* (and 37% had only heard its name) and 46% never heard of the HROK (where another 34% had only heard its name). Only 5% of respondents were well familiar with HROK and 8% with the *Crna Lista*.

In many circumstances, scoring only takes application data into account. Scoring by companies in consumer finance in Croatia has to be done taking into account existing customer information (as far as the client had a pre-existing account) or the application data only. Inclusion of third-party information such as data from the credit bureau typically enhances prediction power of scoring models. It can be expected that consumers in Croatia will increasingly finance cars, motorcycles, driving schools or vacation trips with such loans, therefore, greater power of analysis of these models would be beneficial as this contributes to greater efficiency in lending. Whereas the banks use their own scoring models, consumer finance companies that newly enter the market would benefit from scoring conducted by the credit bureau. However, it has to be ensured that the scoring models and the final decision on a loan application, as well as the main factors that impact on a consumer's score are transparent.

Fair information practices are highly important in markets with increasing consumer finance. The Personal Data Protection Agency (*Agencija za zastitu osobnih podataka*) is in charge of enforcing the Act on Personal Data Protection. This Act mandates in Article 6 that consumers must be fully informed about data processing and give their informed consent to such processing. This must also be applied to sharing between different entities of corporate groups or if the data is exported to another country. The Personal Data Protection Agency stated that they are informed by companies that export personal information to other countries. However, the authority also stated that it must be decided on a case-by-case basis who is data processor and user (with regard to corporate groups, for instance). It must be ensured that consumers only have to give consent – obligatory in contract – for data processing that is necessary for contract administration and not for possible marketing or other purposes. Companies can often tie clauses together for obtaining consent from consumers for several purposes. Further, it has to be ensured that the consumer is aware of his information being sent to other countries to be processed there. The customer should be fully informed of how the data is processed and how long it is stored.

Good Practices: Non-Bank Credit Institutions

Good business relationships between the local non-bank financial institutions which provide credit (and which typically include consumer finance companies, credit card companies, credit unions, among others), and the public are one of the key issues for the development of the economy. There has to be mutual trust and confidence. In the absence of transparency in pricing, consumer awareness and protection and dispute resolution mechanisms, the financial system including non-bank financial institutions will be less efficient.

SECTION A	CONSUMER PROTECTION INSTITUTIONS
Good Practice A.1	<p><i>Consumer Protection Regime</i></p> <p>The law should provide for clear rules on consumer protection in the area of non-bank credit institutions, and there should be adequate institutional arrangements for implementation and enforcement of consumer protection rules.</p> <ul style="list-style-type: none"> a. There should be specific provisions in the law, which create an effective regime for the protection of consumers of non-bank credit institutions b. The rules should prioritize a role for the private sector, including voluntary consumer protection organizations and self-regulatory organizations.
Description	<p>Non-bank credit institutions are not under the scope of the Credit Institutions Act. Thus, they fall outside of the scope of laws applied to banks. Non-bank credit institutions primarily fall under the Company Act (OG 111/1993, OG 34/1999, OG 118/2003), the Leasing Act (OG 135/2006), the Consumer Protection Act (OG 125/2007) and the Act on Personal Data Protection (OG 103/2003, OG 118/2006 and OG 41/2008). They are also subject to the new Consumer Credit Act (OG 75/2009), in force starting from 2010.</p> <ul style="list-style-type: none"> a. In most of the above laws, there are consumer protection rules (such as in the Leasing Act and the Consumer Protection Act, where there are specific rules for credit contracts). Hiring contracts are excluded from the Consumer Protection Act provisions, except in cases where the good passes into the ownership of the lessee. For a discussion of the effective enforcement of these rules, see section on banking institutions. b. See section on banking institutions.
Recommendation	No recommendation is presented.
Good Practice A.2	<p><i>Code of Conduct</i></p> <ul style="list-style-type: none"> a. There should be a principles-based Code of Conduct for non-bank credit institutions that is devised in consultation with the industries involved, and is monitored and enforced in the last resort by a statutory agency. b. The statutory Code should be limited to good business conduct principles. It should be augmented by voluntary codes on matters specific to the industry (banks, credit unions, other non-bank credit institutions). c. The operation of voluntary codes should be monitored by a statutory agency, and the Annual Report of that agency should comment on the operation of those codes.
Description	<p>The development of non-bank credit institutions is only in infancy stage in Croatia. Due to the low number of companies that exist in the area, there is no consumer finance association. Further, companies do not have principles of good practices or</p>

	voluntary codes that could be monitored by an independent agency.
Recommendation	<p>The State Inspectorate is the main oversight institution for the Consumer Protection Act (Article 142) and the Consumer Credit Act (Article 22). The Act on Personal Data Protection (Article 27) is enforced by the Personal Data Protection Agency (<i>Agencija za zastitu osobnih podataka</i>).</p> <p>The supervisory authority could give guidance on consumer and data protection in the development of consumer finance in Croatia, where further market entries are expected in the near future. Especially the clarification of legality of information sharing (discussed below) is of importance.</p> <p>Market conduct is regulated by the Competition Act (OG 122/2003). These institutions are typically outside of the scope of regulation of deposit-taking institutions, because they are not comparable with banks. That is why the Credit Institutions Act (OG 117/2008) has excluded them from the scope of application.¹¹</p>
Good Practice A.3	<p><i>Other Institutional Arrangements</i></p> <ul style="list-style-type: none"> a. There should be an equal balance between prudential supervision and consumer protection. b. The judicial system should provide credibility to the enforcement of the rules on financial consumer protection. c. The media and consumer associations ought to play an active role in promoting financial consumer protection. d. Non-bank credit institutions should be legally responsible for all statements made in marketing and sales materials related to their products.
Description	<ul style="list-style-type: none"> a. Not applicable. Consumer finance companies are not deposit-taking monetary financial institutions, therefore they are not under prudential supervision. The same holds for leasing companies, they are not taking deposits and they are not allowed to provide credit under the Leasing Act. b. See section on banking institutions. c. So far, the existing companies only inform consumers through marketing material about their products. There is no interaction with consumer protection associations. d. See section on banking institutions.
Recommendation	<p>See Good Practice A.2 as well as section on banking institutions for suggestions on a. and b.</p> <p>Consumer associations and media could in fact play a more active role in also including consumer finance in public education campaigns and financial capability workshops. Consumer finance allows the conclusion of credit contract on the premises of a merchant, and credit approval typically takes place within 30-60 minutes. Such point-of-sale credit can facilitate impulse purchases, where consumers do not do an in-depth assessment of affordability or alternative financing possibilities. Consumer associations should educate the public on advantages and disadvantages of such facilities.</p>
SECTION B	DISCLOSURE AND SALES PRACTICES

¹¹ Non-bank financial institutions reviewed here are granting 'zajam,' translated as 'loans' or 'advances.' In the following, this will be used interchangeably with 'credit.'

Good Practice B.1	<i>Know Your Customer</i> A non-bank credit institution should gather, file or record sufficient information appropriate to the risk of the transaction, the nature and complexity of the product or service being sought by the consumer.
Description	In consumer finance, the documentation obligations are fulfilled at the point of sale by the merchant. While the loan can be approved in most cases instantly, the documentation (such as copies of passports or ID cards) has to be later forwarded to the consumer finance companies. Only in grey areas, where it is less clear whether to grant a credit or not, further investigations by the credit provider are triggered.
Recommendation	Just as banks, consumer finance organizations should obtain government-issued identification papers and retain copies of them for at least five years after an account is closed. They should also retain all financial transaction records for at least five years after the transaction has taken place (Basel Committee on Banking Supervision 2001). ¹²
Good Practice B.2	<i>Affordability</i> A non-bank credit institution should ensure that, under consideration of information disclosed by the consumer or third parties, any product or service offered to a consumer is adequately based upon possible affordability of the consumer.
Description	Consumer finance companies do scoring based upon the data obtained from the consumer's application. Third-party information from the credit bureau (HROK) is not available. Whereas the Credit Institutions Act (Arts. 169 and 170) provides for clear exemptions from bank secrecy (and, therefore explicitly allows credit reporting), there is nothing comparable for consumer finance companies. The Act on Personal Data Protection is silent on the subject matter and there are no specialized regulations.
Recommendation	The legal uncertainties about inclusion of non-bank credit institutions that issue loans in the credit information-sharing mechanism should be cleared. According to Article 32 of the Act on Personal Data Protection, the authority may publish important decisions in the Official Gazette. Here, it could be narrowly defined which companies have access to the data, such as consumer finance companies. Leasing companies are bound by the law which does not allow information sharing. While issuing an opinion might be the fast-track solution, a more comprehensive solution would be to further draft a credit register law. Further regulations for the credit bureau are discussed in the banking section.
Good Practice B.3	<i>Cooling-off Period</i> Unless explicitly waived by the consumer in writing there should be a cooling-off period of at least seven days associated with all credit products.
Description	See section on banking institutions.
Recommendation	See section on banking institutions.

¹² Basel Committee on Banking Supervision (2001), *Customer Due Diligence for Banks*, Bank for International Settlements, Geneva.

Good Practice B.4	<i>Bundling and Tying Clauses</i> Whenever a non-bank credit institution contracts with a merchant as distribution channel for its credit contracts, no bundling, tying or other exclusionary dealings should take place.
Description	<p>As stated, consumer finance services are at the beginning of their development in Croatia. However, there is already competitive pressure noticeable, because banks increasingly adapt product designs and create web-based applications for reaching new clients, just as consumer finance companies do.</p> <p>Competition policy in the EU community acquis requires a protection of the economic interests of consumers.¹³ All business practices that restrict, prevent or distort competition are subject to scrutiny. In Croatia, this has been transposed by the Competition Act (OG 122/2003). Article 9 (1) states that there are forbidden all agreements that make the conclusion of contracts subject to acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts. For instance, tying (tie-in sales) occurs where product A cannot be bought without product B, but B can be bought without A. Bundling occurs, where only two products together can be bought (or, likewise, both together are cheaper than both separately).</p>
Recommendation	HNB should monitor the increasing competition between banks and non-bank credit institutions, once it reaches levels where it is economically significant. For this matter, cooperation with the Competition Authority is beneficial. The authorities may facilitate this competition by ensuring that no market player can leverage market power through bundling or tying or other exclusionary practice.
Good Practice B.5	Customer disclosure and sales practices should be included in the non-bank credit institutions' Consumer Protection Code and monitored by the supervisory authority.
Description	Due to the early stages of the market development, there is no extra Consumer Protection Code. The Consumer Protection Act was updated in 2007. Therefore, there is still some implementation effort to do on the side of the institutions which must comply with it.
Recommendation	<p>The State Inspectorate may enforce consumer protection rules for non-bank credit institutions that provide loan facilities. For instance, in many cases, contractual clauses are unclear and do not provide full information (on fees, penalty fees, early withdrawal and other important contractual matters).</p> <p>Contracts should be as complete as possible and include, according to the Consumer Protection Act's Article 74(1) among other items: a) statement on the amount of the loan granted; b) the nominal annual interest rate and the effective (and conditions under which they are changed); c) costs charged at the time the contract is concluded, number and frequency or dates of the installments; d) total costs; e) a statement of the repayment sureties.</p> <p>Very important is a statement of the conditions for and procedure of rescission of the loan contract. As a consumer-friendly measure, also a disclosure of penalty fees could be included.</p> <p>These disclosure practices should be applied to all parties that take credit risk. One established guarantee scheme in Croatia is that of the co-debtor [regulated by the Civil Obligations Act (OG 35/2005), Art. 52]. If the borrower defaults, all obligations (inclusive interest rates charged and penalty fees) are transferred to the co-debtor.</p>

¹³ This includes protection from misleading and comparative advertising and unfair contract terms, for instance.

	<p>There are creditworthiness tests performed on co-debtors. In the credit reports it is stated on how many loans a person serves as co-debtor. This is very important for Croatia, given that an estimate of 75% of all loans include co-debtor (estimate by an industry official). Co-debtors should be equally informed as the main borrower about the loans amounts, possible charges and information-sharing practices (the latter is the legal situation in Croatia). However, further education on risks that come with acting as co-debtor should also be strengthened (see discussion in banking section).</p> <p>The consent on getting the report should be also obtained from the co-debtor, not only the debtor. It should be obtained from anyone connected with that loan.</p>
Good Practice B.6	<p><i>Roles of Third Parties</i></p> <p>a. The regulator or supervisor ought to publish annual public reports on the development, health, strength and penetration of the non-bank credit institutions either as a special report or as part of the disclosure and accountability requirements under the law governing it.</p> <p>b. Non-bank credit institutions should be required to provide their financial information to enable the general public to form an opinion as to the financial viability of the institution.</p>
Description	<p>a. Non-bank credit institutions are commercial companies that are subject to the Company Act, the Consumer Protection Act, the Act on Personal Data Protection and the Competition Act. The Credit Institutions Act does not apply to them. At the moment, they are only supervised by the Tax Department.</p> <p>b. There is no requirement for public reporting, balance sheets are reported to FINA.</p>
Recommendation	As long as the industry is in its infancy and thus economically negligible at the moment in terms of market share, there is no need to burden the companies with additional reporting requirements.
SECTION C	PRIVACY AND DATA PROTECTION
Good Practice C.1	Non-bank credit institutions' customers have a right to expect that their financial transactions are kept confidential. The law ought to require non-bank credit institutions to ensure that they protect the confidentiality and security of personal data, against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access.
Description	<p>The applicable law is the Act on Personal Data Protection. Article 6 states that personal data should be accurate, complete and up-to-date and may not be processed without the consent of the consumer.</p> <p>According to Article 18, adequate protection is required with regard to accidental or deliberate abuse, destruction, loss and unauthorized alteration or access.</p> <p>There is no information sharing with the credit bureau, such that it is not required to obtain informed consent from the consumer by handing out a brochure and signing an extra form (as is practiced in banks).</p> <p>Leasing companies, as stated above, have to protect the confidentiality of information (mandated by Articles 85 and 86 of the Leasing Act). There are no exemptions for credit reporting, but for cases where the written consent is obtained from the client.</p>

Recommendation	<p>It is critical for the regulator to provide guidance on compliance with data protection matters for current and future players.</p> <p>The critical matters are a clarification of the information sharing within corporate groups and full information of the consumer about such information sharing. The Personal Data Protection Agency has stated that the evaluation of such sharing is done on a case-by-case basis. However, the public should be informed about the sharing in corporate groups which might include the data transfer abroad to other countries. This should be made transparent to the consumer and it should be explained in detail where the data are processed and for what purposes. Further, such clauses should not be tied with marketing requests.</p>
Good Practice C.2	<p><i>Credit Bureaus</i></p> <ol style="list-style-type: none"> a. A non-bank credit institution should ensure the accuracy and timeliness of the information that it shares. b. Credit bureaus should comply with the timeliness of updating information of consumers. c. Customers' records should be kept confidential and only be provided for permitted and lawful purposes. d. There ought to be clear procedures and rules on the retention period of credit records, and customers should be informed about the retention period. e. Customers should have access to their credit reports and be provided with a copy of their reports on conditions that are transparent. f. There should be established procedures for correcting mistakes on a customer's credit report.
Description	<p>At the moment consumer finance institutions or leasing companies have no access to the credit bureau. HROK is the only credit bureau in the Croatian market, it stores information on 2.7 million persons (an estimated coverage of 95% of the credit market, 5% not covered are small and regional banks). The firm is a limited liability company, owned by 20 banks.</p> <p>Further, there exists the <i>Crna Lista</i> or SRI (Information Exchange System), a list of non-payers which is operated by the Banking Association (HUB) on behalf of banks. Debtors must approach their banks if they want to know about their file in SRI.</p> <p>According to a GfK survey 67% of respondents never heard of the <i>Crna Lista</i> or only knew its name and 80% never heard of the HROK or only knew its name. A small percentage claimed to be familiar with the systems (5% of respondents with HROK and 8% with <i>Crna Lista</i>).</p>
Recommendation	<p>Although there is no obvious legal obstacle, neither consumer finance companies nor leasing companies are part of the system. It has been communicated to the Mission that there is some hesitation to include them: while the Credit Institutions Act explicitly allows exemptions from bank secrecy in Arts. 169 and 170, there is nothing comparable for consumer finance companies. The (voluntary) inclusion of companies that bear credit risk (such as consumer finance companies and leasing companies) would be recommendable.</p> <p>Further, for leasing there exists no extra exception from professional confidentiality in the Leasing Act. Here, the law would have to be changed to include them to access records on private individuals for leasing products for non-professional purposes.</p> <p>Clarification could be provided by a law on credit registers (under coordination of the Ministry of Finance) that is harmonized with the Credit Institutions Act as well as</p>

	<p>the Act on Personal Data Protection. The Credit Institutions Act holds that the HNB can set up a credit register. Details are not provided and are to be prescribed by HNB in future. Further, provisions in the Leasing Act have to be changed to enable the inclusion of these companies.</p> <p>Of utmost importance is the increase in consumer education about HROK and SRI. Public education should include information of operation and purpose of the systems as well as of the impact on conditions and access to finance by individuals (see also discussion in the banking section). Further, it is important to include scoring and the main factors that impact negatively on credit scores.</p>
SECTION D	DISPUTE RESOLUTION MECHANISMS
Good Practice D.1	<i>Complaint Handling</i> Complaint resolution should be included in the non-bank credit institutions' Code and monitored by the supervisory authority.
Description	<p>Due to the early stages of market development, there is no extra Consumer Protection Code clarifying a dispute resolution mechanism. There also does not exist such a Code for leasing.</p> <p>The Leasing Act provides in chapter XV only an explanation that a claim may be submitted to the leasing company, a consumer protection association, the competent branch of the State Inspectorate or other competent bodies. However, there are no mandates on timeliness for response and mechanisms of coordination.</p>
Recommendation	<p>One recommendation would be to streamline the complaints procedure with the ones that exist in the banking system.</p> <p>Consumer finance companies and leasing companies could possibly become members of the banking association or an ombudsman scheme set up in Croatia. This would improve the complaints mechanisms insofar as it would centralize the system to a certain extent.</p> <p>For an extensive discussion of the current set-up of dispute mechanisms as well as proposals for their streamlining, see banking section.</p>
Good Practice D.2	<i>Formal Dispute Settlement Mechanisms</i> <ol style="list-style-type: none"> a. A system should be in place that allows consumers to seek affordable and efficient third-party recourse in the event they cannot resolve an issue with the non-bank credit institution, which could be an ombudsman or tribunal. b. The role of an ombudsman or equivalent institution <i>vis-à-vis</i> consumer complaints should be in place and made known to the public. c. Ombudsman's impartiality and independence from the appointing authority and industry should also be assured. d. The enforcement mechanism of the decisions of the ombudsman or equivalent institution and binding nature of the decision on banks should be in place and publicized.
Description	See banking section, Good Practice E.3
Recommendation	See banking section, Good Practice E.3

SECTION F	CONSUMER ADVOCACY AND FINANCIAL LITERACY
Good Practice F.1	<p><i>Information Resources for Consumers of Financial Services</i></p> <ul style="list-style-type: none"> a. Policymakers, industry and advocates should understand the financial capability of various market segments, particularly those most vulnerable to abuse. b. Consumers, especially the most vulnerable, should have access to sufficient resources to enable them to understand financial products and services available to them.
Description	See banking section, Section G.
Recommendation	See banking section, Section G.

Croatia: Consumer Protection in the Securities Sector

Historically, consumer protection in the securities area has developed somewhat differently than in the banking sector. Bank customers in most countries enjoy deposit protection and strong prudential supervision of banks – factors that create a solid safety net for customers. On the other hand, investors in securities are not guaranteed any returns and hence, on average, are usually more sophisticated and financially educated than average bank customers. The most important market conduct regulations protecting the investors are those dealing with disclosure of a variety of investment information by industry intermediaries.

The current number of holders of securities accounts in Croatia is relatively large. In 2007 two major IPOs, the oil company INA and the telecom company T-HT, which were offered to the public at a discount resulted in a large increase in the number of securities holders in Croatia. Prior to the final IPO of T-HT, there were approximately 600,000 shareholders, after the IPO there were approximately 800,000. Some estimates have put the number of active accounts at a much smaller number, around 15,000. The market suffered from a serious drop in value, almost 40%, including the value of the IPO stocks. This has resulted in a significant amount of retail customer dissatisfaction, although it has not as of yet, resulted in significant litigation or arbitration. There has been some improvement in the market in 2009.

The percentage share of stock holdings by domestic physical persons has remained fairly constant during the period 2007-2009 at around 10% of the market value of the securities market as a whole. This indicates that the retail investor has not fled the market and is still a significant component of the securities market. This has brought out the need for a number of investor protection institutions, such as an affordable venue for dispute resolution, increased investor literacy, and securities industry associations to interact with investors and the regulatory authority in order to keep them active in the market and confident of the fairness of the operation of the market, notwithstanding market fluctuations.

Legal Framework

Capital Market Act (OG 88/2008, OG 146/2008 and OG 74/2009) superseded the Securities Act and is the primary law dealing with the operation of the securities industry. It was enacted to bring the Croatian securities legal framework in line with EU Directives regarding the securities industry, including MiFID and Market Abuse Directives, among others. Several regulations or Ordinances have been enacted to implement the Capital Market Act. Key ordinances dealing with consumer protection issues are:

- Ordinance on Requirements for Professional Training and Examination of Professional Knowledge Required for Obtaining License to Conduct Activities of a Broker, Investment Advisor, Certified Pension Fund Manager and Certified Pension Insurance Company Manager (OG 5/2009) (henceforth, Ordinance on Training Requirements).
- Ordinance on Organizational Requirements for Providing Investment Services and Conducting Investment Activities and Ancillary Services (OG 5/2009) (henceforth, Ordinance on Organizational Requirements).
- Ordinance on Business Obligations of an Investment Firm when Providing Services to Clients (OG 5/2009) (henceforth, Ordinance on Obligations with Clients)

Investment Funds Act (OG 150/2005) deals with the specialized area of collective investment undertakings and their regulation. A key regulation that implements provisions of this Act related to consumer protection is:

- Ordinance on Regulating the Procedure, Costs and Time Limits for the Winding up of Investment Funds (OG 103/2007)

Act on the Takeover of Joint Stock Companies (OG 109/2007) is the law that deals with takeovers and mergers of listed companies.

Act on the Croatian Financial Services Supervisory Agency (OG 140/2005) is the law that establishes the structure and procedures for the non-bank financial regulator, HANFA. HANFA has responsibility for oversight and regulation of the securities industry, including, among others, public companies, investment firms, stock exchanges, clearing and settlement institutions, collective investment undertakings and investor (consumer) protection.

Act on Personal Data Protection (OG 103/2003, amended by OG 118/2006 and OG 41/2008) is the primary consumer protection act for privacy of personal data. It is administered by the Personal Data Protection Agency.

Law on Arbitration (OG 88/2001) recognizes the Permanent Court of Arbitration of the Croatian Chamber of Economy and gives its decisions the same force as the judgment of a court.

Consumer Protection Act (OG 96/2003, amended by OG 125/2007) is the primary general law for consumer protection in Croatia. The amendments, effective in 2008, establish a higher level of consumer protection in Croatia, in line with the current standards in the EU Member States.

Institutional Arrangement

Croatian Financial Services Supervisory Agency (HANFA) is the non-bank financial institution regulator for Croatia. It regulates, among other financial institutions, the securities markets and collective investment undertakings (CIUs). It is the specialized consumer protection enforcement agency in the securities industry.

The State Inspectorate operates under the purview of the Ministry of Economy, Labor and Entrepreneurship and is the main body for enforcement of consumer protection in Croatia. The inspectors of relevant ministries collaborate with the State Inspectorate in the enforcement task.

Zagreb Stock Exchange (ZSE) is the primary venue for stock trading in Croatia. All public shares are required to be traded on the exchange.

Central Depository and Clearing Company is the clearing and settlement institution for the ZSE. It is also the share registry for all of the dematerialized shares traded on the exchange. Each person in Croatia who has a securities account has an account with the Central Depository and Clearing Company.

Personal Data Protection Agency is the agency charged with enforcing the Act on Personal Data Protection.

Permanent Arbitration Court of the Croatian Chamber of Economy is the arbitration court in Croatia that has the legal authority to issue binding decisions with the same force and effect as the decisions of a court.

Disclosure and Sales Practices

The Capital Market Act and ordinances promulgated thereunder require investment firms and CIUs to provide potential clients and clients with information about the investment services that they are offering. Article 56 of the Capital Market Act requires that an investment firm provide information in a comprehensible form about characteristics and risks associated with financial instruments and investment strategies offered by the firm to clients and potential clients, so that they can take investment decisions on an informed basis. Articles 9-11 of Ordinance on Obligations with Clients provide specific details as to the information to be provided such as the name of the firm, with what entity it is registered, how clients' funds are held safely, the means of communicating with the investment firm, and similar provisions.

The civil liability provisions in the Capital Market Act for violations of the sales practice provisions in the Act are limited in scope. Articles 356 and 359 have a penalty for inaccurate or incomplete information in a prospectus or its summary and Article 442 provides for liability resulting from inaccuracies in periodic reporting by issuers. However, these legal provisions do not cover the sales practices of investment firms and the extent to which potential clients and clients can seek damages resulting from an investment firm's sales practices that are in violation of the Capital Market Act. These individuals would need to use other Croatian laws to assert their claims against investment firms and their salespeople. The Investment Funds Act in Article 48 contains civil liability provisions for management companies not acting with due care and diligence, or improperly carrying out its tasks under the Investment Funds Act and related ordinances, the fund's rules or the fund's prospectus. However this provision only applies to the management company and does not apply to individual sales people.

The Consumer Protection Act in Article 57(4) requires that persons contacting a potential client or client by phone should identify themselves and, among other things, disclose whether they are registered. The requirement that a sales person disclose his license is not specifically required in the Capital Market Act, but Article 9(1) of Ordinance on Obligations with Clients requires that such information be given regarding the investment firm and tied agents and therefore it can be inferred that the individual sales person must disclose that he or she is also licensed to act for the firm.

Investment firms and CIUs are required to provide the terms and conditions of the contract to potential clients. Article 56 of the Capital Market Act requires an investment firm to provide information to potential clients and clients on its services offered, financial instruments, strategies, execution venues offered and fees. Article 66(1) of the Capital Market Act requires an investment firm to enter into a written agreement with a potential client setting out the rights and obligations of the firm and the client. Articles 12 and 13 of the Ordinance on Obligations with Clients require the investment firm to disclose the general charges for its services as well as the method of computation of fees, non-interest fees, and any service fees. Article 11 of Ordinance on Organizational Requirements requires investment firms to have a complaints procedure but there is no explicit obligation to tell a client about the procedure. However, Article 61 of the Consumer Protection Act requires that an entity providing investment services disclose the complaints procedure. Article 61 of the Consumer Protection Act also requires that the investor compensation scheme be disclosed to potential investors. There are no provisions in the law or

ordinances concerning restrictions on account transfers or closing an account. Nonetheless the general provisions in the Capital Market Act to deal fairly with clients would imply an obligation to disclose this.

Article 24 of the Capital Market Act and Ordinance on Training Requirements provide for an education program and the subject matters to be studied to prepare for an examination to obtain a license to conduct the activities of a broker, investment advisor, authorized pension fund manager and authorized pension insurance company manager. The Act stresses multiple levels of financial and economic skills; however it only has secondary provisions for education in the areas of ethics and good practices. These areas should have their own distinct series of classes.

The Capital Market Act and HANFA's regulations require that Know-Your-Customer (KYC) procedures be implemented by investment firms. Article 68 of the Capital Market Act requires investment firms providing investment advice or portfolio management to obtain the necessary information on a potential client or client's financial situation, investment objectives, knowledge and experience relevant to the specific type of investment product or service. For investment services other than investment advice and portfolio management, Article 69 requires that investment firms ask the client or potential client to provide information regarding knowledge and experience in the investment field relevant to the specific type of product or service. Article 15 of Ordinance on Obligations with Clients implements this provision. Article 14 of Ordinance on Obligations with Clients sets out the type of information that the investment firms should obtain, such as income, real property and liquid assets, as well as investment experience. The investment firm is entitled to assume that a client classified as a professional investor has adequate assets and experience to engage in risks that are in line with his investment objectives.

Under Article 68 of the Capital Market Act, if the investment firm fails to obtain the information indicated above, it shall warn the client that it will not be able to provide investment advice or portfolio management. Article 69 states that for investment services other than advice and portfolio management, the investment firm shall also obtain information that enables it to assess whether the investment service or product envisaged is appropriate for the client. Article 15 of Ordinance on Obligations with Clients implements this Article. In case the investment firm considers that, on the basis of the information received, the product or service is not appropriate for the client, the firm shall warn the client. Also, in cases where the client elects not to provide the requested information or provides insufficient information, the investment firm shall warn the client that such a decision will not allow the firm to determine whether the service or product envisaged is appropriate for the client.

The KYC and suitability rules in the Capital Market Act do not apply to CIU investors. There are no separate laws or ordinances that contain a know-your-customer rule for CIU investors. These provisions are important in determining the suitability of an investment fund for a specific client.

The Croatian legal framework for sales practices in the securities markets is comprehensive. The Consumer Protection Act (Articles 113-115) prohibits aggressive sales practices in long distance sales of financial products by investment firms or CIUs. Article 54 of the Capital Market Act requires investment firms to act in the best interests of their clients and to deal fairly and professionally with them. This provision should cover aggressive sales practices. Article 55 of the Capital Market Act provides that all communications of investment firms with clients should be fair, clear and not misleading. Article 6 of Ordinance on Obligations with

Clients implements the requirement of Article 55. The Investment Funds Act in its Article 118 requires that all promotional literature be clear, accurate, truthful and not misleading. Further, in regards to CIUs, Article 189 provides that entities engaged in sales activities and in distributing fund units for the management company should also be truthful, accurate and not misleading in their sales practices. Article 6(2) (4) of Ordinance on Obligations with Clients provides that communications with clients by investment firms should not disguise, diminish or obscure important items, statements or warnings.

Risk disclosure is also required in the Capital Market Act and Investment Funds Act. Article 56 of the Capital Market Act requires the disclosure of risks in particular financial instruments. Article 10 of Ordinance on Obligations with Clients implements this provision and requires full disclosure of the risks of investing in different types of financial instruments. Article 59 of the Consumer Protection Act also requires disclosure of the risks of investing in specific strategies and instruments.

There are no specific legal provisions in the Capital Market Act related to attempts to contractually limit legal liability. Nonetheless Article 6(2) (4) of Ordinance on Obligations with Clients would imply that such restriction would need to be done with full disclosure of its effects and the right of the client to reject it. Such a practice would be considered unfair under Article 97 of the Consumer Protection Act.

The penalty provisions in the Capital Market Act for violations of the sales practice provisions are not robust. The only specific provision in the Capital Market Act containing a sales practice penalty is Article 573(2)(6) which has a penalty for inaccurate or incomplete information in a prospectus. The Investment Funds Act in its Article 234 has sanctions for false and misleading sales practices by the distributors of CIU units named in Article 189; however it only applies to legal entities and their responsible persons and does not apply to individual sales people.

Croatian laws and ordinances comprehensively set forth a framework of rules for advertising and materials for securities offerings. Article 55 of the Capital Market Act provides that all communications, including marketing materials, of investment firms with clients should be fair, clear and not misleading. This is implemented in Article 6 of Ordinance on Obligations with Clients. Similarly, the Investment Funds Act in Article 118 also requires that all promotional literature be clear, accurate, truthful and not misleading.

Customer Account Handling and Maintenance

Article 42 of the Capital Market Act provides for the segregation of client funds from the funds of an investment firm. Ordinance on Organizational Requirements (Article 22) implements this Article of the Capital Market Act and provides for specific rules to accomplish the segregation. The Investment Funds Act in Articles 50 and 51 also provides for segregation of fund assets from the asset manager and the depository of the fund.

The Capital Market Act, Article 57, requires an investment firm to provide adequate reports to clients. Ordinance on Obligations with Clients, Article 20, requires the investment firm to send a statement to a client at least once a year. If the investment firm holds client assets and provides portfolio services for that client, then Article 18(3) requires that the client be sent a statement every six months, and, if the client requests, then every three months. Article 172 of the Investment Funds Act requires management companies to give investors, at their request, semi-

annual and annual reports regarding the funds in which they have invested. However, the management company is only obligated to send a personal statement to the investor once a year.

The Capital Market Act does not have a detailed description of documents that must be maintained, but these documents are set out in detail in Annex I to Ordinance on Organizational Requirements. Article 41 of the Capital Market Law requires an investment firm to keep all necessary documents to enable it to supervise its business and to ascertain that the investment firm has complied with all obligations with respect to clients and potential clients. Article 58 also requires that an investment firm retain among other things, “documents agreed between the investment firm and the client that set out the rights and obligations of the parties, and the other terms on which the investment firm will provide services to the client.” Ordinance on Organizational Requirements, Articles 12-16, provides in more detail for the maintenance of records regarding orders and communications with clients regarding these orders. Annex I of Ordinance sets out in great detail the records that must be maintained.

Article 41 of the Capital Market Act requires the records to be maintained for a minimum of five years. Ordinance on Organizational Requirements in Article 12(1) repeats this requirement and in Article 12(3) states that the time can be extended at the request of HANFA. Article 13 requires that the records be maintained in a safe place and on a medium that allows HANFA to access the records at any time.

Privacy and Data Protection

The primary legislation regarding privacy and data protection is the Act on Personal Data Protection which created the Personal Data Protection Agency to oversee that personal data is kept in a secure manner and only released and used under certain conditions. Investment firms and CIUs are covered by this Act and they regularly report to the Personal Data Protection Agency and are audited by it. The system works well according to all persons interviewed in the securities sector.

The Capital Market Act has provisions on confidentiality and security of customers’ information. Article 41(4) requires investment firms to securely keep customer data and protect it from unauthorized access. Article 54(2) provides that investment firms and their officers, directors, employees and tied agents must treat information they receive in connection with providing services and information regarding a customer’s account as confidential. The Capital Market Act also prohibits unauthorized use of confidential information by staff and management of HANFA (Article 558), Zagreb Stock Exchange (Article 293), Central Depository and Clearing Company (Article 519) and Investor Protection Fund (Article 240). Confidential information is widely defined and includes customer information. Also, the Investment Funds Act in Article 30(5) provides that a management company should keep as a business secret the information of the unit holders.

The Act on Personal Data Protection and its agency appear to work well in regards to sharing of information. Their rules apply to intermediaries and CIUs and they actively supervise the conduct of financial institutions by conducting audits. The Act on Personal Data Protection has extensive provisions on the sharing of customer information. Article 9 of the Act on Personal Data Protection requires an investment firm or CIU, as the “personal data filing system controller,” to inform its customers regarding the collection of data from them. Article 19 of the Act on Personal Data Protection requires an investment firm or CIU to disclose to customers when their data is being processed and the legal basis for doing so. This notification can be

suspended for national security or law enforcement reasons under Article 23 of the Act. Although the legislation doesn't require an investment firm or CIU to notify a customer in advance, except in regards to direct marketing, the customer is advised when the processing is lawfully done. Article 21 of the Act on Personal Data Protection requires that the data controller notify the customer of any intent to process data for direct marketing purposes and communicate to the customer the right to object to such a use. The customer then has the right to object or "opt out" of the direct marketing use.

Interestingly, the Capital Market Act goes further than the Act on Personal Data Protection. Article 54(2) of the Capital Market Act provides that investment firms and their officers, directors, employees and tied agents must not use customer information or disclose it to third parties or enable third parties to use that information. Similarly, the Investment Funds Act in Article 30(5) only allows disclosure of customer information upon a court order, request of an individual unit-holder or shareholder, to the fund's depository bank or to HANFA in its supervisory capacity. It is not clear which provisions will govern securities and CIU data, but specific laws generally prevail over more general laws.

Article 568(1)(3) and (8) provides that it is a violation subject to fine for an investment firm to fail to prevent unauthorized access to customer data, or to divulge customer data to third parties. Article 568(2) provides that the responsible person at the firm can also be fined. However, there is no penalty for the person who actually committed the violation. Article 232(1)(2) of the Investment Funds Act provides a penalty for violating the confidentiality provisions by a management company. Article 36(1) of the Act on Personal Data Protection provides that if a processing official improperly uses or discloses information of a person, a significant fine can be levied against the individual. In addition, under Article 36 the individual responsible within a legal person that holds the information can also be fined. However, this does not cover all natural persons who could obtain and misuse the personal information of customers of investment firms or CIUs.

Article 558(3) of the Capital Market Act and Article 53(1)(11) of the Investment Funds Act allow the government to obtain customer financial records by deeming them non-confidential for the purposes of a government request. The creation of this exception does not contain a specific procedure other than the procedures for supervision by HANFA of the securities intermediary or CIU.

Dispute Resolution Mechanisms

Ordinance on Organizational Requirements in Article 11 requires an investment firm to have internal complaints handling and resolution procedures. Article 57(1) of the Consumer Protection Act requires a financial service provider to provide a client with the details of dispute resolution mechanisms prior to entering into the contract for financial services. HANFA reviews the complaint files and procedures of investment firms when it conducts its examinations of the firms.

There is no independent dispute resolution mechanism specifically established specifically for disputes between investors and investment firms or CIUs. The Chamber of Economy has, as one of its component parts, a Permanent Court of Arbitration. The parties can agree to submit to the jurisdiction of the Permanent Court. Interviews with members of the securities sector indicated that the Permanent Court was rarely used to resolve securities disputes and, when used, it was between large institutions. It appears that it is too expensive for retail investors with small

claims. Although viewed as independent by some commentators, the Permanent Court is part of the Chamber that houses the Investment Fund Management Companies Association and the Association for Financial Market Operations and Intermediation. A decision of the Permanent Court, by statute, has the full effect of a decision at a regular court of law and is binding on both parties. The enforcement mechanisms of the judicial system would be available to enforce the Permanent Court's decisions. There are other mediation services available in Croatia, but they have no power to issue binding decisions and do not appear to be used by anyone in the securities industry.

Insolvency and Investor Protection Fund

Articles 222-246 of Capital Market Act provide for the creation and operation of the Investor Protection Fund. The law and ordinances are clear as to the funds and instruments that are covered by the Fund.

The Capital Market Act in Article 118 provides for the procedures for the liquidation of investment firms. The liquidation procedure follows normal corporate bankruptcy proceedings and there are no provisions allowing HANFA to appoint a receiver or liquidator for a distressed investment firm. HANFA can issue injunctions, freeze assets and take other measures to protect the assets of an investment firm under Article 480 of the Capital Market Act. Liquidation of a closed-end investment fund is also done pursuant to the Companies Act, according to Article 2 of the Ordinance Regulating the Procedure, Costs and Time Limits for the Winding up of Investment Funds. The management company handles the winding up of an open-ended investment fund unless it is in bankruptcy or has lost its license, in which case the winding up is done by the depositary bank for the fund. If the depositary bank is bankrupt, then a liquidator appointed by HANFA handles the liquidation under Article 181 of the Investment Funds Act. Nonetheless, there are no provisions for the appointment of a receiver by HANFA.

There are no specific payout mechanisms for investors or unit holders of CIUs. The payout is done pursuant to standard bankruptcy procedures. However, Articles 181-183 of the Investment Funds Act provide for the winding-up of a fund where the management company is in bankruptcy and the depositary bank is also bankrupt. In this circumstance HANFA appoints the liquidator of the investment fund. The provisions for the HANFA-appointed liquidator provide for an expeditious means of providing timely payouts to investors. The liquidator must act with all deliberate speed under Article 181(4), and must report to HANFA and the unit holders under Article 182. Under Article 8(1) of the Ordinance Regulating the Procedure, Costs and Time Limits for the Winding Up of Investment Funds, this should take place within six months of the decision to liquidate the investment fund, and the funds should be paid within fifteen days of the decision on the distribution of funds under Article 6(3). There are no similar procedures for investment firms in the Capital Market Act or its implementing Ordinances.

Consumer Education and Financial Literacy

The print and broadcast media actively cover issues related to retail financial products, although many people interviewed felt that the coverage was more sensationalist than analytical and informative. The regulators meet with the press and provide information on a case-by-case basis rather than as part of an overall media program.

HANFA and ZSE have engaged in investor awareness campaigns. HANFA has prepared a sophisticated 4-part series on the stock market for prime time television, including descriptions of how the market works and how it is regulated. The emphasis is on investor education regarding risk and market evaluation. HANFA conducted a series of workshops and educational seminars in 2008 dealing with the changes in legislation and the alignment with EU directives. For example, in June 2008 a seminar was organized for the stock exchange and industry professionals, in November and December 2008 seminars were organized for staff of the Ministry for Internal Affairs and State Attorney's Office, and in December 2008 a special lecture was organized for journalists. In addition, HANFA published the handbook "New Capital Market" in December 2008, in printed and electronic versions. The handbook covers main issues regarding the capital market as well as recent changes in legislation, in a style that is easy to read and understand by the general public. Non-governmental organizations are not particularly engaged in the area of the stock markets and financial education, since few NGOs concentrate their efforts in the area of the securities market.

Good Practices: Securities Sector

SECTION A	INVESTOR PROTECTION INSTITUTIONS
Good Practice A.1	<p><i>Legislative Framework</i></p> <p>The law should provide for clear rules on investor protection in the area of securities markets products and services, and there should be adequate institutional arrangements for implementation and enforcement of investor protection rules.</p> <ul style="list-style-type: none"> a. There should be specific legal provisions in the law which creates an effective regime for the protection of investors in securities. b. There should be a governmental agency responsible for the oversight and enforcement of investor protection laws and regulations, and for data collection and analysis (including complaints, disputes and inquiries).
Description	<p>There are two primary laws in the securities area which deal with consumer protection, the Capital Market Act and the Investment Funds Act. The Consumer Protection Act also governs the activity of financial institutions in their dealing with customers. In addition, there are a number of regulations, called Ordinances, which have been issued to implement the two primary securities laws. Taken together the Acts and Ordinances provide a general framework for the regulation of the securities markets and investor protection.</p> <p>The Act on the Croatian Financial Services Supervisory Agency establishes HANFA as the regulator of the non-bank financial institutions which include brokers, advisors and management companies for collective investment undertakings (CIUs). HANFA also enforces other laws, such as the Act on the Takeover of Joint Stock Companies. The State Inspectorate enforces the Consumer Protection Act in cooperation with HANFA.</p>
Recommendation	No recommendation.
Good Practice A.2	<p><i>Code of Conduct for Securities Intermediaries and Collective Investment Undertakings.</i></p> <ul style="list-style-type: none"> a. Securities Intermediaries and CIUs should have a voluntary Code of Conduct. b. Securities Intermediaries and CIUs should publicize the Code of Conduct to the general public through appropriate means. c. Securities Intermediaries and CIUs should comply with the Code and an appropriate mechanism should be in place to provide incentives to comply with the Code.
Description	<ul style="list-style-type: none"> a. The Association for Financial Market Operations and Intermediation under the Chamber of Economy does not have a code of conduct, but the Investment Fund Management Companies Association does. b. The Code of Conduct of the Investment Fund Management Companies Association is not well publicized and it does not appear that it can be used by investors in dealing with a fund manager. In addition, although the Investment Fund Management Companies Association has a system for resolving disputes between fund managers, it is simply a mediation procedure. c. If mediation does not work, then the matter is sent to the Chamber's Court of Honor, which also functions as a dispute resolution centre between fund managers.

	However, it has limited sanctions available to provide incentives to comply with the Code. The main sanction is a "shaming" sanction of publicizing the dispute.
Recommendation	A Code of Conduct for the Association for Financial Market Operations and Intermediation should be created and publicized. Other incentives should be put in place to encourage compliance with the Codes.
Good Practice A.3	<p><i>Other Institutional Arrangements</i></p> <ul style="list-style-type: none"> a. The judicial system should provide an efficient and trusted venue for the enforcement of laws and regulations on investor protection. b. The media should play an active role in promoting investor protection. c. The private sector, including voluntary investor protection organizations, industry associations and, where permitted, self-regulatory organizations, should play an active role in promoting investor protection.
Description	<p>a. The judicial system is generally criticized for being inefficient and slow. As a result, few investor complaints are lodged in the court system. This weakness has been recognized and there are several projects to improve the legal system. This is particularly important for the EU and significant improvements have been made to meet EU accession requirements.</p> <p>b. There are reporters and media that cover financial matters, particularly from the standpoint of investors. However, they have been criticized as being too biased and not well informed. They do not appear to have an active role in investor education.</p> <p>c. There are two associations under the Chamber of Economy. The Association for Financial Market Operations and Intermediation for securities market participants, including brokerage companies, the Zagreb Stock Exchange, the Central Depository and Clearing Company and the Zagreb Money Market. This Association was established in 1998, and collaborates with HANFA regarding new legislation, organizes workshops in order to enhance better interpretation of laws, etc. The second association is the Investment Fund Management Companies Association for managers of CIUs. HANFA collaborates with this Association and organizes workshops for industry professionals. There was general agreement that independent associations for the purposes of organizing and promoting the different parts of the securities industry would be useful, but there does not appear to be current movement towards their creation.</p>
Recommendation	<p>The judicial system should be upgraded, which is being done with help from EU and the World Bank.</p> <p>The two professional associations in the securities sector should be established as independent entities in order to provide for increased interaction between industry institutions and investors and for the development of the securities market.</p>
SECTION B	DISCLOSURE AND SALES PRACTICES
Good Practice B.1	<p><i>General Practices</i></p> <p>There should be disclosure principles that cover an investor's relationship with a person buying or selling securities, or offering to do so, in all three stages of such relationship: pre-sale, point of sale, and post-sale.</p> <ul style="list-style-type: none"> a. The information available and provided to an investor needs to inform the investor of the choice of accounts, products and services; the characteristics of each type of account, product or service; and the risks and consequences of purchasing each type

	<p>of account, product or service.</p> <p>b. A securities intermediary or CIU should be legally responsible for all statements made in marketing and sales materials related to its products.</p> <p>c. A natural person acting as the representative of a securities intermediary or CIU should disclose to an investor whether he is licensed to act as such a representative and by whom he is licensed.</p>
<p>Description</p>	<p>The legal framework for consumer protection in the securities sector provides for extensive disclosure regarding the investor's relationship with a person buying or selling securities.</p> <p>a. The Croatian law and regulations require investment firms and CIUs to provide potential clients and clients with information about the investment services being offered. Article 56 of the Capital Market Act requires that an investment firm provide information in a comprehensible form about characteristics and risks associated with financial instruments and investment strategies offered by the firm to clients and potential clients, so that they can take investment decisions on an informed basis. Articles 9-11 of Ordinance on Obligations with Clients provide specific details as to the information to be disclosed to clients, such as the name of the firm, with what entity it is registered, how clients' funds are held safely, and the means of communicating with the investment firm.</p> <p>b. The civil liability provisions in the Capital Market Act for violations of the sales practice provisions are limited in scope. The specific provisions are Articles 356 and 359, which have a penalty for inaccurate or incomplete information in a prospectus or its summary, and Article 442 which provides for liability resulting from inaccuracies in periodic reporting by issuers. The Investment Funds Act in Article 48 contains liability provisions for management companies not acting with due care and diligence or improperly carrying out its tasks under the law or the fund's rules or prospectus. However, this provision only applies to legal entities and does not apply to individual sales people.</p> <p>c. The Consumer Protection Act in Article 57(4) requires that persons contacting a potential client or client by phone should identify themselves and, among other things, provide information regarding whether they are registered. The requirement that a sales person also disclose if he or she is licensed is not specifically required in the Capital Market Act, but Article 9(1) of Ordinance on Obligations with Clients requires that such information be given regarding the investment firm and tied agents. Therefore, it can be inferred that the individual sales person must disclose that he or she is also licensed to act for the firm.</p>
<p>Recommendation</p>	<p>The civil liability sections in the Capital Market Act and Investment Funds Act should be strengthened and expanded to include individual sales people.</p>
<p>Good Practice B.2</p>	<p><i>Terms and Conditions</i></p> <p>Before commencing a relationship with an investor, a securities intermediary or CIU should provide the investor with a copy of its general terms and conditions, and any terms and conditions that apply to the particular account.</p> <p>Insofar as possible, the terms and conditions should always be in a font size and spacing that facilitates easy reading.</p> <p>The terms and conditions should disclose:</p> <p>a. details of the general charges;</p> <p>b. the complaints procedure;</p> <p>c. information about any compensation scheme that the securities intermediary or CIU is a member of, and an outline of the action</p>

	<p>and remedies which the investor may take in the event of default by the securities intermediary or CIU;</p> <p>d. the methods of computing interest rates paid or charged;</p> <p>e. any relevant non-interest charges or fees related to the product;</p> <p>f. any service charges;</p> <p>g. any restrictions on account transfers; and</p> <p>h. the procedures for closing an account.</p>
Description	<p>Investment firms and CIUs are required to provide the terms and conditions of the contract to potential clients. Article 56 of the Capital Market Act requires an investment firm to provide information to potential clients and clients on its services offered, financial instruments, strategies, execution venues offered and fees. Article 66(1) of the Capital Market Act requires an investment firm to enter into a written agreement with a potential client setting out the rights and obligations of the firm and the client.</p> <p>a. Articles 12 and 13 of Ordinance on Obligations with Clients require the investment firm to disclose the general charges for its services.</p> <p>b. Article 11 of Ordinance on Organizational Requirements requires investment firms to have a complaints procedure but there is no explicit obligation to tell a client about the procedure. However, Article 61 of the Consumer Protection Act requires that an entity providing investment services disclose the complaints procedure.</p> <p>c. Articles 222-246 of the Capital Market Act provide for the establishment of an investor compensation scheme. The Consumer Protection Act in Article 61 requires that the compensation scheme be disclosed to the investor.</p> <p>d. Articles 12 and 13 of Ordinance on Obligations with Clients provide for disclosure of the method of computation of fees.</p> <p>e. Articles 12 and 13 of Ordinance on Obligations with Clients provide for disclosure of non-interest charges or fees.</p> <p>f. Articles 12 and 13 of Ordinance on Obligations with Clients provide for disclosure of any service fees.</p> <p>g. There are no provisions in the law or ordinances on restrictions on account transfers, although the general provisions to deal fairly with clients would imply an obligation to disclose these restrictions.</p> <p>h. There are no provisions in the law or ordinances on disclosure of procedures for closing an account, although the general provisions to deal fairly with clients would imply an obligation to disclose these procedures.</p>
Recommendation	No recommendation.
Good Practice B.3	<p><i>Professional Competence</i></p> <p>Regulators should establish and administer minimum competency requirements for the sales staff of securities intermediaries and CIUs, and collaborate with industry associations where appropriate.</p>
Description	<p>Professional competence requirements are included in Article 24 of the Capital Market Act and in the Ordinance on Training Requirements. Both provide for the education program and subject matters to be studied in order to prepare for an examination to obtain a license to conduct activities of a broker, investment advisor, certified pension fund manager and certified pension insurance company manager. The Act stresses multiple levels of financial and economic skills; however it only has secondary provisions for education in the areas of ethics and good practices. These</p>

	areas should have their own distinct series of classes.
Recommendation	There should be separate modules for ethics and good conduct and a significant part of the examination should deal with these areas.
Good Practice B.4	<i>Know Your Customer (KYC)</i> Before providing a product or service to an investor, a securities intermediary or CIU should obtain, record and retain sufficient information to enable it to form a professional view of the investor's background, financial condition, investment experience and attitude toward risk in order to enable it to provide a recommendation, product or service appropriate to that investor.
Description	<p>The Capital Market Act and implementing regulations require that KYC procedures (i.e. getting customer information to determine suitability) are used by investment firms. Article 68 of the Capital Market Act requires investment firms providing investment advice or portfolio management to obtain the necessary information on the client's or potential client's financial situation, investment objectives, knowledge and experience relevant to the specific type of investment product or service.</p> <p>For investment services other than investment advice and portfolio management, Article 69 requires that investment firms ask the client or potential client to provide information regarding knowledge and experience in the investment field relevant to the specific type of product or service. Article 15 of Ordinance on Obligations with Clients implements Article 69 of the Capital Market Act.</p> <p>Article 14 of Ordinance on Obligations with Clients sets out the type of information that should be obtained, such as income, real property and liquid assets, as well as investment experience. The investment firm is entitled to assume that a client classified as a professional investor has adequate assets and experience to engage in risks that are in line with his or her investment objectives.</p> <p>These rules do not apply to CIU investors and there are no separate laws or ordinances that contain a know-your-customer rule for CIU investors.</p>
Recommendation	Ordinances should be promulgated so that know-your-customer rules are applicable to CIU customers.
Good Practice B.5	<i>Suitability</i> A securities intermediary or CIU should ensure that, taking into account the facts disclosed by the investor and other relevant facts about that investor of which it is aware, any recommendation, product or service offered to the investor is suitable to that investor.
Description	<p>Under Article 68 of the Capital Market Act, when providing investment advice or portfolio management, an investment firm (not including CIUs) shall obtain the necessary information about the client that enables the firm to recommend to the client or potential client the investment services and financial instruments that are suitable for the client. The Act also states that if the investment firm fails to obtain this information, it shall warn the client that it will not be able to provide investment advice or portfolio management.</p> <p>Article 69 states that for investment services other than advice and portfolio management, the investment firm (not including CIUs) shall also obtain information that enables it to assess whether the investment service or product envisaged is appropriate for the client. Article 15 of the Ordinance on Obligations with Clients implements this Article. In case the investment firm considers that, on the basis of the information received, the product or service is not appropriate for the client, the firm shall warn the client. Also, in cases where the client elects not to provide the requested information or provides insufficient information, the investment firm shall</p>

	<p>warn the client that such a decision will not allow the firm to determine whether the service or product envisaged is appropriate for the client.</p> <p>As with know-your-customer rules, these suitability rules do not apply to CIU investors, and are there no separate suitability rules under other laws.</p>
Recommendation	Ordinances should be promulgated so that suitability rules are applicable to CIU customers.
Good Practice B.6	<p><i>Sales Practices</i></p> <p>Legislation and regulations should contain clear rules on improper sales practices in the solicitation, sale and purchase of securities. Thus, securities intermediaries, CIUs and their sales representatives should:</p> <ol style="list-style-type: none"> a. Not use high-pressure sales tactics. b. Not engage in misrepresentations and half truths as to products being sold. c. Fully disclose the risks of investing in a financial product being sold. d. Not discount or disparage warnings or cautionary statements in written sales literature. e. Not exclude or restrict, or seek to exclude or restrict, any legal liability or duty of care to an investor, except where permitted by applicable legislation. <p>Legislation and regulations should provide sanctions for improper sales practices.</p>
Description	<p>The Croatian legal framework for sales practices in the securities markets is comprehensive, although the penalty provisions for violations of the rules on sales practices are not robust.</p> <ol style="list-style-type: none"> a. Articles 113-115 of the Consumer Protection Act prohibit aggressive sales practices in long-distance sales of financial products by investment firms or CIUs. Article 54 of the Capital Market Act requires investment firms to act in the best interests of their clients and to deal fairly and professionally with them, provision that should cover aggressive sales practices. b. Article 55 of the Capital Market Act provides that all communications of investment firms with clients should be fair, clear and not misleading. Article 6 of Ordinance on Obligations with Clients implements the requirement of Article 55. The Investment Funds Act in its Article 118 requires that all promotional literature be clear, accurate, truthful and not misleading. Further, in regards to CIUs, Article 189 provides that entities engaged in sales activities and distribution of fund units for the management company should also be truthful, accurate and not misleading in their sales practices. c. Article 56 of the Capital Market Act requires the disclosure of risks in particular financial instruments. Article 10 of Ordinance on Obligations with Clients implements this provision and requires full disclosure of the risks of investing in different types of financial instruments. Article 59 of the Consumer Protection Act also requires disclosure of the risks of investing in specific strategies and instruments. d. Article 6(2) (4) of Ordinance on Obligations with Clients provides that communications with clients by investment firms should not disguise, diminish or obscure important items, statements or warnings. This provision would prohibit disparagement of warnings or cautionary statements. e. Such a practice would be considered unfair under Article 97 of the Consumer Protection Act. However, there are no specific legal provisions in the Capital Market

	<p>Act related to attempts to contractually limit legal liability. Article 6(2) (4) of Ordinance on Obligations with Clients would imply that such provisions would need to be done with full disclosure of the effect of such a provision and the right of the client to reject it.</p> <p>The penalty provisions in the Capital Market Act for violations of the sales practice provisions are not robust. The only specific provision is Article 573(2)(6) which has a penalty for inaccurate or incomplete information in a prospectus. The Investment Funds Act in its Article 234 also has sanctions for false and misleading sales practices by distributors of CIU units set forth in Article 189, however it applies only to legal entities and their responsible persons and does not apply to individual sales people.</p>
Recommendation	Specific penalties should be put in force for violations of the sales practice provisions in the Capital Market Act and ordinances. In addition, specific penalties should be put in place for individual persons who are acting in a sales capacity for an investment firm or a CIU.
Good Practice B.7	<p><i>Advertising and Sales Materials</i></p> <ul style="list-style-type: none"> a. All marketing and sales materials should be in plain language and understandable by the average investor. b. Securities intermediaries, CIUs and their sales representatives should ensure their advertising and sales materials and procedures do not mislead the customers. c. Securities intermediaries and CIUs should disclose in all advertising, including print, television and radio, the fact that they are regulated and by whom.
Description	<p>Croatian laws and ordinances comprehensively set forth a set of rules for advertising and materials for securities.</p> <p>a. Article 55 of the Capital Market Act provides that all communications, including marketing materials, of investment firms with clients should be fair, clear and not misleading. This is implemented by Article 6 of Ordinance on Obligations with Clients. Similarly, the Investment Funds Act in Article 118 also requires that all promotional literature be clear, accurate, truthful and not misleading. Article 5 of Ordinance on Organizational Requirements requires an investment firm to have adequate procedures in place to monitor compliance of its activities with the law and relevant ordinances.</p> <p>b. Article 378 of the Capital Market Act provides that advertisements related to the offer of shares shall be clearly recognizable as such, and the information contained in it shall not be inaccurate, and shall not mislead investors. Advertisements shall be in conformity with the prospectus and indicate where the prospectus can be obtained. Article 115 of the Investment Funds Act requires that all advertising of CIUs be approved by HANFA before being used.</p> <p>c. The general advertising provisions do not require that intermediaries state that they are regulated, but Article 58 of the Consumer Protection Act requires that this information be given to potential customers in distance contracts for financial services.</p>
Recommendation	No recommendation.
SECTION C	CUSTOMER ACCOUNT HANDLING AND MAINTENANCE
Good Practice C.1	<p><i>Segregation of Funds</i></p> <p>Funds of investors should be segregated from the funds of all other market participants.</p>

Description	Article 42 of the Capital Market Act provides for the segregation of client funds from the funds of an investment firm. Ordinance on Organizational Requirements (Article 22) implements this Article and provides for specific rules to accomplish the segregation. Articles 50 and 51, among other provisions of the Investment Fund Act, also provide for segregation of fund assets from the asset manager and the depositary of the fund.
Recommendation	No recommendation.
Good Practice C.2	<i>Contract Note</i> Investors should receive a detailed contract note from a securities intermediary or CIU confirming and containing the characteristics of each trade executed with them, or on their behalf. The contract note should disclose the commission received by the securities intermediary, CIU and their sales representatives.
Description	Article 80 of the Capital Market Act requires that an investment firm confirm receipt of an order from a client. Article 81 requires the investment firm to inform the client of the rejection of an order and explain the reasons for the rejection. Ordinance on Obligations with Clients in Article 17 requires that the investment firm confirm the execution of a trade to its clients, and sets forth the information to be contained in the notice, such as price, quantity, venue of transaction, nature of the order and applicable fees and charges.
Recommendation	No recommendation.
Good Practice C.3	<i>Statements</i> An investor should receive periodic, streamlined statements for each account with a securities intermediary or CIU, providing the complete details of account activity in an easy-to-read format. <ol style="list-style-type: none"> a. Timely delivery of periodic securities and CIU statements pertaining to the accounts should be made. b. Investors ought to have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period. c. When an investor signs up for paperless statements, such statements should also be in an easy-to-read and readily understandable format.
Description	The Capital Market Act (Article 57) requires an investment firm to provide adequate reports to clients. Ordinance on Business Obligations in Article 20 requires the investment firm to send a statement to a client at least once a year. If the investment firm holds client assets and provides portfolio services for that client, then Article 18(3) requires that the client be sent a statement every six months, or every three months if the client requests so. Article 172 of the Investment Funds Act requires management companies to give investors, at their request, semi-annual and annual reports regarding the funds in which they have invested. However, the management company is only obligated to send a personal statement to the investor once a year.
Recommendation	Ordinances should require that semi-annual (if a transaction is made during the first half of the year) and annual statements be sent to retail securities and investment fund customers even if they don't request it.
Good Practice C.4	<i>Prompt Payment and Transfer of Funds</i> When an investor requests the payment of funds in his or her account, or the transfer of funds and assets to another intermediary or mutual fund, the payment or transfer should be made promptly.

Description	Although Articles 81 and 82 of the Capital Market Act deal with the receipt of orders for the purchase and sale of securities by an investment firm, there are no specific provisions, such as specific deadlines or maximum time periods, that relate to the closing of, and transfer of, funds or positions from the customer's account to another investment firm. The Investment Funds Act and related ordinances do not contain such a specific provision either.
Recommendation	The ordinances should include a specific time period for the closing of an account and, if requested by the client, transfer of the funds or positions, to another investment firm or CIU.
Good Practice C.5	<p><i>Investor Records</i></p> <p>A securities intermediary or CIU should maintain up-to-date investor records containing at least the following:</p> <ul style="list-style-type: none"> a. A copy of all documents required for investor identification and profile; b. The investor's contact details; c. All contract notices and periodic statements provided to the investor; d. Details of advice, products and services provided to the investor; e. Details of all information provided to the investor in relation to the advice, products and services provided to the investor; f. All correspondence with the investor; g. All documents or applications completed or signed by the investor; h. Copies of all original documents submitted by the investor in support of an application for the provision of advice, products or services; i. All other information concerning the investor which the securities intermediary or CIU is required to keep by law; and j. All other information which the securities intermediary or CIU obtains regarding the investor. <p>Details of individual transactions should be retained for a reasonable number of years after the date of the transaction. All other records required under a) to j) above should be retained for a reasonable number of years from the date the relationship with the investor ends. Investor records should be complete and readily accessible.</p>
Description	<p>The Capital Market Act does not have a detailed description of documents that must be maintained, but Article 41 requires an investment firm to keep all necessary documents to enable it to supervise its business and to ascertain that the investment firm has complied with all obligations with respect to clients and potential clients. Articles 12-16 of Ordinance on Organizational Requirements provide in more detail for the maintenance of records regarding orders and communications with clients about the orders. Annex I of Ordinance on Organizational Requirements sets out in great detail the records that must be maintained, including the records in elements a-j. Article 58 of the Capital Market Act also requires that an investment firm retain among other things, "documents agreed between the investment firm and the client that set out the rights and obligations of the parties, and the other terms on which the investment firm will provide services to the client." These requirements would include the elements a-j.</p> <p>Article 41 requires the records to be maintained for a minimum of five years. Ordinance on Organizational Requirements in Article 12(1) repeats this requirement and in 12(3) states that the time can be extended at the request of the Agency (HANFA). Article 13 of the Ordinance requires that the records be maintained in a</p>

	safe place and on a medium that allows HANFA to access the records at any time.
Recommendation	No recommendation.
SECTION D	PRIVACY AND DATA PROTECTION
Good Practice D.1	<i>Confidentiality and Security of Customers' Information</i> Investors of a securities intermediary or CIU have a right to expect that their financial activities will have privacy from unwarranted private and governmental scrutiny. The law should require that securities intermediaries and CIUs take sufficient steps to protect the confidentiality and security of a customer's information against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access to, or use of, customer information.
Description	<p>The primary legislation regarding privacy and data protection is the Act on Personal Data Protection which created the Personal Data Protection Agency to oversee that personal data is kept in a secure manner and only released and used under certain conditions. Investment firms and CIUs are covered by this Act and they regularly report to the Personal Data Protection Agency and are audited by it. The system works well according to all persons interviewed in the securities sector.</p> <p>In addition, Article 41(4) of the Capital Market Act requires investment firms to protect customer data from unauthorized access and preserve it in a way that ensures durability of records. In addition, Article 54(2) provides that investment firms and their officers, directors, employees and tied agents must treat information they receive in connection with providing services and information regarding a customer's account as confidential, and that they must not use the information or disclose it to third parties or enable third parties to use that information. Similarly, Article 30(5) of the Investment Funds Act provides that a management company should keep as a business secret the information of the unit holders and should only disclose the information to the depositary bank and on court order, with the exception of requests by the unit holders themselves and HANFA in its supervisory capacity.</p> <p>The Capital Market Act also has confidentiality provisions, prohibiting unauthorized use of confidential information by staff and management of HANFA (Article 558), the Zagreb Stock Exchange (Article 293), Central Depository and Clearing Company (Article 519) and Investor Protection Fund (Article 240). Confidential information is widely defined and includes customer information.</p>
Recommendation	No recommendation.
Good Practice D.2	<i>Sharing Customer's Information</i> Securities intermediaries and CIUs should: <ol style="list-style-type: none"> a. Inform an investor of third-party dealings in which they should share information regarding the investor's account, such as legal enquiries by a credit bureau, unless the law provides otherwise; b. Explain how they use and share an investor's personal information; c. Allow an investor to stop or "opt out" of certain information sharing, such as selling or sharing account or personal information to outside companies that are not affiliated with them, for the purpose of telemarketing or direct mail marketing, and inform the investor of this option.
Description	The Act on Personal Data Protection and its enforcement agency appear to work well. The Agency's rules apply to investment firms and CIUs and the Agency actively

	<p>supervises the conduct of financial institutions by conducting audits. The Act on Personal Data Protection has extensive provisions on the sharing of customer information.</p> <p>a. Article 9 of the Act on Personal Data Protection requires an investment firm or CIU, as the “personal data filing system controller,” to inform its customers regarding the collection of data from them.</p> <p>b. Article 19 of the Act on Personal Data Protection requires an investment firm or CIU to disclose to customers when their data is being processed and the legal basis for doing so. This notification can be suspended for national security or law enforcement reasons under Article 23 of the Act. Although the legislation doesn’t require an investment firm or CIU to notify a customer in advance, except in regards to direct marketing, the customer is advised when the processing is lawfully done.</p> <p>c. Article 21 of the Act on Personal Data Protection requires that the data controller notify the customer of any intent to process data for direct marketing purposes and communicate to the customer the right to object to such a use. The customer then has the right to object or “opt out” of the direct marketing use.</p> <p>Interestingly, the Capital Market Act goes further than the Act on Personal Data Protection. Article 54(2) provides that investment firms and their officers, directors, employees and tied agents must not use customer information or disclose it to third parties or enable third parties to use the information. Similarly, the Investment Funds Act in Article 30(5) only allows disclosure of customer information upon a court order, request of an individual unit-holder or shareholder, or to the fund’s depositary bank. It is not clear which provisions will govern securities and CIU data, but specific laws generally prevail over more general laws.</p>
Recommendation	No recommendation.
Good Practice D.3	<p><i>Permitted Disclosures</i></p> <p>a. The law should state specific procedures and exceptions concerning the release of customer financial records to government authorities.</p> <p>b. The law should provide for penalties for breach of investor confidentiality.</p>
Description	<p>a. Article 558(3) of the Capital Market Act and Article 53(1)(11) of the Investment Fund Act allow the government to obtain customer financial records by deeming them non-confidential for the purposes of a government request. The creation of this exception does not contain a specific procedure other than the procedures for supervision by HANFA of the securities intermediary or CIU.</p> <p>b. Article 568(1)(3) and (8) provides that it is a violation subject to fine for an investment firm, to fail to prevent unauthorized access to customer data, or to divulge customer data to third parties. Article 568(2) provides that the responsible person at the firm can also be fined. However, there is no penalty for the person who actually committed the violation.</p> <p>Article 232(1)(2) of the Investment Funds Act provides a penalty for violating the confidentiality provisions by a management company. In addition, legal and natural persons can have their license suspended or permanently revoked.</p> <p>Article 36(1) of the Act on Personal Data Protection provides that if a processing official improperly uses or discloses information of a person, a significant fine can be levied against the individual. In addition, under Article 36 the individual responsible within a legal person that holds the information can also be fined. However, this</p>

	does not cover all of the natural persons who could obtain and misuse the personal information of customers of investment firms or CIUs.
Recommendation	Although some significant penalties exist for natural persons, the penalties for many of the natural persons who can commit the mentioned violations are not in the law. The laws should be broadened to provide for significant penalties for all natural persons who commit the violations of the laws protecting securities and CIU customers' data.
SECTION E	DISPUTE RESOLUTION MECHANISMS
Good Practice E.1	<p><i>Internal Dispute Settlement</i></p> <ul style="list-style-type: none"> a. An internal avenue for claim and dispute resolution practices within a securities intermediary or CIU should be required by the securities supervisory agency. b. Securities intermediaries and CIUs should provide designated employees available to investors for inquiries and complaints. c. Securities intermediaries and CIUs should inform their investors of the internal procedures on dispute resolution. d. The securities supervisory agency should provide oversight on whether securities intermediaries and CIUs comply with their internal procedures on investor protection rules.
Description	<ul style="list-style-type: none"> a. Ordinance on Organizational Requirements (Article 11) requires an investment firm to have internal complaints handling and resolution procedures. b. There is no provision in Ordinance on Organizational Requirements requiring designated employees that deal with investors' inquiries and complaints. c. Article 57(1) of the Consumer Protection Act requires a financial service provider to provide a client with the details of dispute resolution mechanisms prior to entering into the contract for financial services. d. HANFA reviews the complaint files and procedures of investment firms when it conducts its examinations of the firms.
Recommendation	No recommendation.
Good Practice E.2	<p><i>Formal Claims Dispute Mechanisms</i></p> <p>There should be an independent system for resolving disputes that investors have with their securities intermediaries and CIUs.</p> <ul style="list-style-type: none"> a. A system should be in place to allow investors to seek third-party recourse, such as an ombudsman or arbitration court, in the event that the complaint with their securities intermediary or CIU is not resolved to their satisfaction in accordance with internal procedure, and the system should be made known to the public. b. The dispute resolution system should be impartial and independent from the appointing authority and the industry. c. The enforcement mechanism of the decisions of the dispute resolution system and the binding nature of the decision on securities intermediaries and CIUs should be in place and publicized.
Description	<p>There is no independent dispute resolution mechanism specifically established for disputes between investors and their investment firms or CIUs.</p> <ul style="list-style-type: none"> a. The Chamber of Economy has, as one of its component parts, a Permanent Court of Arbitration. The parties can agree to submit to the jurisdiction of the Permanent

	<p>Court. Interviews with members of the securities sector indicated that the Permanent Court was rarely used to resolve securities disputes and, when used, it was between large institutions. It appears that it is too expensive for retail investors with small claims.</p> <p>b. Although viewed as independent by some commentators, the Permanent Court is part of the Chamber that houses the Investment Fund Management Companies Association and the Association for Financial Market Operations and Intermediation.</p> <p>c. A decision of the Permanent Court, by statute, has the full effect of a decision at a regular court of law and is binding on both parties. The enforcement mechanisms of the judicial system would be available to enforce the Permanent Court's decisions. There are other mediation services available in Croatia, but they have no power to issue binding decisions and do not appear to be used by anyone in the securities industry.</p>
Recommendation	An effective and affordable dispute resolution mechanism for the securities industry, such as an ombudsman, does not exist and should be put in place.
SECTION F	INSOLVENCY OF AN INTERMEDIARY OR CIU
Good Practice F.1	<p>Legal Provisions</p> <ul style="list-style-type: none"> a. There should be clear provisions in the law to ensure that the regulatory authority can take prompt corrective action on a timely basis in the event of distress at a securities intermediary or CIU. b. The law on the investor's guarantee fund should be clear on the funds and financial instruments that are covered under the law. c. There should be an effective mechanism in place for the payout of funds and transfer of financial instruments by the guarantee fund or insolvency trustee in a timely manner. d. The legal provisions on the insolvency of securities intermediaries and CIUs should provide for expeditious, cost-effective and equitable provisions to enable the timely payment of funds and transfer of financial instruments to investors by the insolvency trustee of a securities intermediary or CIU.
Description	<p>a. The Capital Market Act (Article 118) provides for the procedures for the liquidation of investment firms. The liquidation procedure follows normal corporate bankruptcy proceedings. There are no provisions allowing HANFA to appoint a receiver or liquidator for a distressed investment firm. HANFA can issue injunctions, freeze assets and take other measures to protect the assets of an investment firm under Article 480 of the Capital Market Act.</p> <p>There are no general provisions in the Capital Market Act for the appointment of a receiver by HANFA, if it considers that an investment firm or CIU is in distress. Liquidation of a closed-end investment fund is also done pursuant to the Companies Act, according to Article 2 of the Ordinance Regulating the Procedure, Costs and Time Limits for the Winding up of Investment Funds. The management company handles the winding up of an open-ended investment fund unless it is in bankruptcy or has lost its license, in which case the winding up is done by the depositary bank for the fund. If the depositary bank is bankrupt, then a liquidator appointed by HANFA handles the liquidation under Article 181 of the Investment Funds Act.</p> <p>b. Articles 222-246 of Capital Market Act provide for the creation and operation of the Investor Protection Fund. The law and ordinances are clear as to the funds and instruments that are covered by the Fund.</p> <p>c. There are no specific payout mechanisms for investors or unit holders of CIUs.</p>

	<p>The payout is done pursuant to standard bankruptcy procedures.</p> <p>d. Articles 181-183 of the Investment Funds Act provide for the winding-up of a fund where the management company is in bankruptcy and the depositary bank is bankrupt. HANFA will appoint a liquidator in this circumstance. These provisions provide for an expeditious means of providing timely payouts to investors. The liquidator must act with all deliberate speed under Article 181(4) and must report to HANFA and the unit holders under Article 182. Under Article 8(1) of the Ordinance on Regulating the Procedure, Costs and Time Limits for the Winding Up of Investment Funds, this should take place within six months of the decision to liquidate the investment fund, and the funds should be paid within fifteen days of the decision on the distribution of funds under Article 6(3). There are no similar procedures for investment firms in the Capital Market Act or its implementing Ordinances.</p>
Recommendation	The law should be amended to provide for the appointment of a receiver by HANFA, if it determines that an investment firm or CIU is in financial distress. In addition, a mechanism for rapid payout of funds to investors and CIU unit holders should be included in the amendment.
SECTION G	CONSUMER EMPOWERMENT
Good Practice G.1	<p><i>Financial Education through the Media</i></p> <p>a. Print and broadcast media should be encouraged to actively cover issues related to retail financial products.</p> <p>b. Regulators and/or industry associations should provide sufficient information to the press and broadcast media to facilitate analysis of issues related to financial products and services.</p>
Description	The print and broadcast media actively cover issues related to retail financial products, although many people interviewed during the Mission felt that the coverage was more sensationalist than analytical and informative. The regulators meet with the press and provide information, but on a case-by-case basis rather than as part of an overall media program.
Recommendation	No recommendation.
Good Practice G.2	<p><i>Information Resources for Investors</i></p> <p>a. Financial regulators should devise, publish and distribute information resources for investors that seek to improve awareness, providing independent information on the costs, risks and benefits of financial products and services.</p> <p>b. Public education on investor awareness in the area of financial services by non-governmental organizations should also be encouraged.</p>
Description	<p>HANFA and ZSE have engaged in investor awareness campaigns. HANFA is preparing a sophisticated 4-part series on the stock market for prime time television, including descriptions of how the market works and how it is regulated. The emphasis will be on investor education regarding risk and market evaluation.</p> <p>HANFA conducted a series of workshops and educational seminars in 2008 dealing with the changes in legislation and the alignment with EU directives. For example, in June 2008 a seminar was organized for the stock exchange and industry professionals, in November and December 2008 seminars were organized for staff of the Ministry for Internal Affairs and State Attorney's Office, and in December 2008 a special lecture was organized for journalists.</p>

	<p>In addition, HANFA published the handbook "New Capital Market" in December 2008, in printed and electronic versions. The handbook covers main issues regarding the capital market as well as recent changes in legislation, in a style that is easy to read and understand by the general public.</p> <p>Non-governmental associations are not particularly engaged in the area of the stock markets and financial education, since few NGOs concentrate their efforts in the field of securities markets.</p>
Recommendation	No recommendation.

Croatia: Consumer Protection in the Insurance Sector

The insurance sector in Croatia is growing. The Croatian insurance sector settles approximately 607,000 claims every year on 8 million policies for a population of approximately 4.5 million.

There are 25 insurers and 2 reinsurers registered and licensed in Croatia. Of the 25 insurers, 10 have grandfathered composite status (i.e. they underwrite both life and non-life insurance contracts), 8 insurers are specialized in non-life insurance and 7 in underwriting life insurance contracts. The sector shows typical early transition characteristics for a post-socialist country and given Croatia's GDP per capita, it is probably a little behind where it should be under a normal growth path. As seen in Table 4, premium revenues are dominated by mandatory motor insurance (MTPL) and casco. The state-controlled insurer Croatia Insurance accounts for 33.5% of the country's gross premiums.

Table 4: Measures of Insurance Sector Size

Type of Insurance	Gross Written Premiums (HRK million)		Number of Policies (Thousands)	
	2007	2008	2007	2008
Motor MTPL	2,721	2,923	1,963	2,047
Motor Casco	1,074	1,154	445	480
Life	2,483	2,546	1,223	1,331
Other	2,786	3,064	3,888	4,123
Total	9,064	9,686	7,519	7,981

Source: HANFA

Table 5: Indicators of Market Concentration (%)

Type of Insurance	Top 2 Companies		Top 5 Companies	
	2006	2008	2006	2008
Life Insurance	30.0	31.0	60.9	61.2
Non- Life Insurance	59.4	55.6	82.6	79.6

Source: HANFA

The life insurance segment is noticeably underdeveloped and continues to be fragmented. Tax disincentives for employer-based group insurance arrangements probably account for some of the delayed development, although the country is emerging from a period of domination by multi-level agency systems with concomitant high lapse rates and is possibly still suffering the after-effects. The domination of banks may have also retarded the development of the contractual savings sector, although the growing interest of the credit grantors in commission income may now be having the reverse effect. Furthermore, reasons for underdeveloped life assurance market from a historical point of view lay in the social policy of the State, where citizens had a high level of social security and benefits guaranteed by the State, and in the non-life-insurance-oriented business strategy of Croatia Insurance, which had a leading position in the market.

Given Croatia's current and growing GDP per capita, it can reasonably be assumed that long-term savings products will begin to grow rapidly over the next decade. Life penetration (premiums as a proportion of GDP) has increased from 0.56% in 2001 to 0.74% in 2008, which

compares with a more typical 1.4% for Eastern and Central European countries at a similar stage of development (and with similar mandatory pension arrangements). This desirable term-transforming disintermediation needs to be supported by a credible and well-publicized market conduct and consumer protection regime.

Table 6: Growth of Life Insurance Premiums

Life Insurance Premium Income	2001	2002	2003	2004	2005	2006	2007	2008
Gross written premium income (HRK millions)	925	1,152	1,350	1,569	1,895	2,176	2,071	2,541
Growth rate (%)		24.6	17.1	16.3	20.8	14.2	14.8	2.5

Source: HANFA

Most insurance products on offer are relatively conventional for a country at Croatia's stage of development. However single premium investment-linked contracts sold through banks are becoming a more prominent part of the sales statistics. Domestic banks have linked with insurers as they begin to appreciate the income potential of arrangements between bank agencies and insurance companies, and the value of their customer databases as a cross-selling opportunity (Table 7).

Table 7: Insurer – Bank Agency Arrangements

Insurer	Bank
Allianz Zagreb	Zagrebacka
Basler Life	HVB
Erste	Erste
Generali and Croatia	Privredna Banka Zagreb
GRAWE Croatia	Hypo
UNIQA	Raffaisen
Croatia	Croatian Post Bank
Agram Life	Splitska

Source: AXCO

There is some evidence of banks tying the availability of mortgage loans to sales of life insurance contracts, including single premium investment contracts, even if the consumer has an existing life contract available as collateral. Some banks are also marketing consumer financial packages containing a range of products, including some classes of insurance. Anecdotal evidence was provided regarding bank branch staff that refused to open accounts for informed customers if they were not willing to sign information-sharing waivers.

Direct sales have recently become the main distribution channel for life insurance. Overall there are 25 insurance brokerage companies and 378 insurance agencies in Croatia. However the main life distribution system is now direct sales, being partly a metamorphosis of the multi-level selling system with licensed sales people being rewarded by a base salary and commission overrides and working with “finders”. Some multilevel sellers also became brokers. However, the stricter accreditation requirements in the new Insurance Act have been effective in gradually improving the professionalism of agents and brokers.

Mandatory motor third party liability insurance and accident insurance are mainly sold by agents located in motor car testing stations which offer a combined safety check, road tax

and mandatory insurance package. The provisions of the Insurance Act (Article 251) have also had an impact here. Motor-testing station agents need to be qualified and approved and, whilst they can offer the same product from more than one insurer, they are limited to mandatory third party insurance and personal accident insurance and have to offer the same terms from all insurers that they represent.

Legal Framework

The Insurance Act (OG 151/2005) is the main regulation governing the insurance market in Croatia, and it has been effective since January 2006. Since its adoption there have been two amendments to the aforementioned law: the Act on amendments to the Insurance Act adopted in July 2008 (OG 87/2008) that entered into force on 1 January 2009, and the Act adopted and entered into force in July 2009 (OG 82/2009).

The most important sub-laws or ordinances ruling on consumer protection are:

- Ordinance on the Requirements for Professional Training and Examination of Technical Knowledge Needed to Obtain an Authorization to Carry on Insurance Representation or Insurance Brokerage Business (OG 92/2009)
- Ordinance on the Form, Content and Manner of Keeping the Register of Insurance Agents and Insurance Brokers (OG 92/2009)
- Ordinance on Technical and Organizational Requirements Needed to Carry on Insurance Representation Business at Vehicle Roadworthiness Test Garages (OG 92/2009)
- Ordinance on Promotional Activities of Insurance and Reinsurance Companies (OG 151/2008 and OG 9/2009)

Other relevant statutes are: the Act on Compulsory Insurance within the Transport Sector (OG 151/2005, OG 36/2009 and OG 75/2009), the Consumer Protection Act (OG 125/2007 and OG 79/2009), Section 27 of the Civil Obligations Act (OG 35/2005 and OG 41/2008) and the Act on Personal Data Protection (OG 103/2003, amended by OG 118/2006 and OG 41/2008).

Institutional Arrangement

The insurance companies, insurance brokerage companies and insurance agencies all have their own associations located in the Chamber of Economy. These bodies are primarily intended to represent the relevant sector's interests at the political level, but also sustain the arbitration courts and provide mediation services. Individual agents are represented by the Chamber of Trades and Crafts.

The Insurance Bureau performs the standard governance and data-gathering roles for mandatory motor insurance and the Green Card system. It is also the only non-EU full member of the European Insurance and Reinsurance Federation (CEA) aside from Switzerland. It also has an industry representation role under the law and a potentially significant SRO role with regard to consumer protection.

The relevant supervisor (HANFA) is fully integrated and is responsible for non-bank financial institutions. It was established by the Act on the Croatian Financial Services Supervisory Agency (OG 140/2005), effective since November 2005.

Good Practices: Insurance Sector

SECTION A	CONSUMER PROTECTION INSTITUTIONS
Good Practice A.1	<p><i>Legislative Framework</i></p> <p>The legal system should recognize and provide for clear rules on consumer protection in the area of insurance and there should be adequate institutional arrangements for implementation and enforcement of consumer protection rules.</p> <ol style="list-style-type: none"> a. There should be specific legal provisions in the law which creates an effective regime for the protection of consumers of insurance services. b. There should be a general consumer agency or a specialized agency responsible for the implementation, oversight and enforcement of consumer protection, and data collection and analysis (including complaints, disputes and inquiries). c. The legal system should provide for a role for the private sector, including voluntary consumer protection associations and self-regulatory organizations.
Description	<p>Croatia is actively introducing a formal consumer protection regime partly in order to meet its obligation to implement the EU Acquis. This is being done in a very tight timetable and there will no doubt be a need for some further tailoring to Croatian circumstances once accession is granted.</p> <p>The overriding consumer law is the <i>Consumer Protection Act</i>, however insurance activities appear to be carved out of a number of important provisions or deferred to the obligations law. Section 27 of the <i>Civil Obligations Act</i> covers Insurance Contracts, although it defers to laws covering special insurance classes (Article 923(3)). The <i>Insurance Act</i> is a relatively modern law which acknowledges that insurers sell to consumers, unlike the Civil Obligations Act, which operates on the rather arcane concept that the consumer makes an offer to the insurer that then needs to be accepted (i.e. it is more in line with B2B concepts). The Insurance Act has a relatively comprehensive coverage of consumer protection issues by the standards of many peer countries. Sub-laws (called ordinances) cover the examination, accreditation and record-keeping systems for insurance agents and brokers and there is good coverage of the information that should be provided to consumers. Moreover, the Ordinance on Promotional Activities of Insurance and Reinsurance Companies covers all promotional activities oriented towards consumers, which must contain clear, true and complete information based on reliable data; and are subject to previous authorisation by HANFA. The <i>Act on Compulsory Insurance within the Transport Sector</i> gives the insurer a minimum period of time to settle a claim before legal action can be initiated by the claimant, a desirable provision given the delays and costs involved in legal recourse (averaging 30% of additional charges according to the Insurance Bureau).</p> <p>However, the overriding protection philosophy continues to focus largely on prudential oversight and provides little guidance on how institutional arrangements for resolving consumer disputes should operate in practice.</p> <p>Where consumer disputes arise there appears to be an ongoing bias towards legalistic actions rather than inexpensive and efficient alternative dispute resolution procedures: sections of the legal profession have a vested interest in the preservation of existing mechanisms. However, there is legal scope for consumer-friendly dispute resolution within the insurance sector. The Insurance Act delegates</p>

	<p>a specific power to the Insurance Bureau, related to “the settlement of policyholders or other injured parties” and “activities related to the out-of-court settlement of disputes between the persons injured or policyholders or customers and the insurance undertaking or insurance service provider”. The law also requires that relevant statistics are maintained.</p> <p>The other major legislation on consumer protection relates to data privacy –the Act on Personal Data Protection. This appears to be a well drafted law although it could be more specific regarding opt-out/ opt-in rules for data sharing within financial sector groups and for how this is handled at the sales interface.</p>
Recommendation	<p>Insurance or consumer protection statutes should establish insurance B2C dispute resolution mechanisms that are neutral and objective, easy to access and inexpensive to the consumer. This could include the establishment of a professional ombudsman service that can deal with consumer complaints over a range of complexity. Such a service could operate as an SRO with appropriate governance mechanisms or as a centralized statutory service.</p>
Good Practice A.2	<p><i>Other Institutional Arrangements</i></p> <ol style="list-style-type: none"> a. The judicial system should provide credibility to the enforcement of the rules on consumer protection. b. The media and consumer associations ought to play an active role in promoting consumer protection.
Description	<p>The Consumer Protection Act provides for consumers to file for mediation with the Conciliation Centre of the Croatian Chamber of Economy. Consumers also have a constitutional right to go straight to litigation. However the civil courts are seen as being very slow (typically 9 years to get a court of first instance ruling and then finalize a first appeal) and possibly subject to influences not directly reflecting the merits of the case. The arbitration process is seen as being expensive (the applicant pays costs), is not commonly used for consumer disputes and in some cases is excluded from contractual wordings.</p> <p>The State Inspectorate in charge of enforcing the Consumer Protection Act does not have the authority to settle individual disputes, although it may prevent a product or service from being sold in certain circumstances such as non-performance under a contract and mis-labelling. Most grounds for such action do not appear to be relevant to the financial sector.</p> <p>There are 26 consumer NGOs active in Croatia operating under 2 umbrella organizations. Four of these NGOs have been elected to be regional Consumer Counseling Centres, handling consumer complaints and inquiries. Two NGOs deal with financial sector products. Data for the first few years of operation would indicate that in practice these entities are not used very often where financial services are concerned.</p> <p>There is a range of complaints registration mechanisms mentioned in the Insurance Act (Article 268) including:</p> <ol style="list-style-type: none"> 1. The insurer’s internal arrangements 2. The insurer’s internal audit unit 3. A consumer protection association or society 4. A branch office of the State Inspectorate 5. Other competent authorities (basically the Insurance Bureau or HANFA, since most consumer NGOs, including the 4 designated as Consumer Protection Counseling Centres, appear to be focused on tangible consumer goods). <p>The Insurance Act does not explicitly give HANFA the power to resolve disputes</p>

	(Article 268(2)) and does not offer any other recourse mechanisms for insurance policyholders, aside from those provided through the Insurance Bureau. However the Bureau is required by law to “act in favour of insurance undertakings having their head offices in the Republic of Croatia” and any structure established through the Bureau will need to include a strong and neutral governance structure.
Recommendation	All consumer bodies to which insurance complaints and inquiries may be addressed should have a standard form to record such complaints and inquiries and should be required to forward this information electronically to HANFA within a defined period of time (say monthly). They should also be required to advise all people making insurance-related inquiries or complaints of the availability of the Ombudsman (or equivalent) service and how to contact this service independently.
SECTION B	DISCLOSURE AND SALES PRACTICES
Good Practice B.1	<p>Formal Disclosure</p> <ul style="list-style-type: none"> a. Insurers should ensure their advertising and sales materials and procedures do not mislead customers. Regulatory limits should be placed on investment returns used in life insurance value projections. b. Insurers should be legally responsible for all statements made in the marketing and sales materials they produce related to their products. c. All marketing and sales materials should be easily readable and understandable by the general public. d. A key-facts document should be attached to all sales and contractual documents, disclosing the key factors of the insurance product or services in large print.
Description	<p>Two general provisions of the Consumer Protection Act are best practice. These are the articles 100 and 101, which mandate that contractual wordings need to be in plain language (and easily readable) and that if there is any ambiguity the contract will be read to the benefit of the consumer.</p> <p>The contractual information that needs to be disclosed to a policyholder before an insurance contract is concluded is specified in Articles 89-91 of the Insurance Act. This includes basic information about the legal status and contact details of the insurer, relevant sections of the Insurance Act, and key characteristics of the insurance contract. These articles also require that the information provided be “drawn up in a clear and accurate manner in the Croatian language”, but do not specify font size, print contrast, etc. Contract information disclosure is further specified for life insurance and unit-linked contracts.</p> <p>Unusually, there is no requirement to explain how a claim can be made, including where to submit claims, any time limits imposed and the general duties of the policyholder at the time the claim arises (as laid out in the Civil Obligations Act, Articles 941, 950 and 951). There is a requirement to disclose rights of cancellation and withdrawal and the “manner of settlement” of policyholder’s disputes.</p> <p>Insurers are required to advise policyholders of any changes in the information they provided at the time the contract was entered into.</p> <p>Information that must be provided at the point of sale and before the contract is concluded is covered by Article 256 of the Insurance Act. The agent or broker is required to disclose his or her identity and the employer’s address (and his or her relationship with the employer) and provide means for confirming that he or she is registered. In addition the intermediary is required to explain the dispute resolution vehicles that are available.</p>

	<p>Moreover, the Ordinance on Promotional Activities of Insurance and Reinsurance covers all promotional activities oriented towards consumers, which must contain clear, true and complete information based on reliable data. The insurance company is responsible for the completeness, trustworthiness and authenticity of information, including that provided by insurance intermediaries. All promotional activities are subject to previous authorisation by HANFA. Promotional activities must not conceal or mislead the purpose of promotion or promotion itself.</p> <p>There appear to be no specific limits on the assumptions that life insurers or their representatives may use for the purpose of benefits illustration, although the Consumer Protection Act has provisions against misleading advertisement (Articles 110 and 111) and there are specific rules on this subject in the pensions legislation.</p> <p>There is no requirement that a key-facts document be attached to sales documentation or insurance contracts.</p>
Recommendation	<p>A key-facts document using relatively large print and contrasting backgrounds should be provided in a prominent position with insurance sales documents and contracts.</p> <p>HANFA should specify the maximum assumptions on interest crediting and bonuses, based on current secure investment returns available, which can be employed by life insurers and their representatives for future benefit illustrations. A similar provision already exists for pension funds (see Mandatory and Voluntary Pension Funds Law, Article 65(2)).</p>
Good Practice B.3	<p><i>Sales Practices</i></p> <ol style="list-style-type: none"> a. All insurance intermediaries should be licensed and proof of licensing should be readily available to the general public, including through the internet. b. Sales personnel and intermediaries selling and advising on insurance contracts should have sufficient qualifications, depending on the complexities of the products they sell. c. Educational requirements for intermediaries selling long-term savings and investment insurance products should be specified, or at least approved, by the regulator or supervisor. d. The sales intermediary or officer should be required to obtain sufficient information about the consumer to ensure that an appropriate product is offered. Formal “fact finds” should be specified for long-term savings and investment products and they should be retained and be available for inspection for at least 7 years. e. Insurers should be held responsible for product-related information provided to consumers by their agents (i.e. those intermediaries acting for the insurer). f. Consumers should be made aware of whether the intermediary selling them an insurance contract (known as a policy) is acting for himself or for the insurer (i.e. in the latter case the intermediary has an agency agreement with the insurer). g. If the intermediary is a broker (i.e. acting on behalf of the consumer), then the consumer should be advised at the time of initial contact with the intermediary if commission will be paid by the underwriting insurer. The consumer should have the right to require disclosure of commission paid to an intermediary for long-term savings contracts. The consumer should always be advised of the amount of commission paid on single premium investment contracts.

	<p>h. An intermediary should not be allowed to identically fill broking and agency roles for a given general class of insurance (i.e. life and disability, health, general insurance, credit insurance).</p> <p>i. There should be a reasonable cooling-off period associated with any traditional investment or long-term life savings contract, after the policy information is delivered, to deal with possible high-pressure selling and mis-selling.</p> <p>j. Sanctions including meaningful fines and, in the case of intermediaries, loss of license, should apply for breach of any of the above provisions.</p>
<p>Description</p>	<p>The Insurance Act includes a comprehensive section covering brokers and agents. Amongst other things this requires that all agents should satisfy certain fit-and-proper requirements and pass an examination covering all aspects of the insurance sector. Brokers have similar requirements, although their educational requirement is higher (university degree as opposed to high school certificate). However there appears to be no differentiation of training and examination requirements according to the complexity and term of the product being sold.</p> <p>Most agents are not allowed to sell competing products unless there is a mutual agreement on the basis of a written approval by the represented insurance company that allows the agency to sell competing products. There is an exemption for motor-testing station-based agents, who are restricted to only 2 products types (personal accident and motor vehicle liability).</p> <p>Agents cannot be brokers at the same time, and they are not allowed to collect money from a policyholder. Agents' responsibilities are defined in Article 234 of the Insurance Act and may be further circumscribed. However any such limitations cannot be used against the policyholder. Under Article 238 insurers and insurance agencies are responsible for the actions of their agents. Agents and brokers (except for individuals working under the Trades Act) are required to maintain modest amounts of minimum capital. In addition insurance agencies (i.e. legal persons) and insurance brokerage companies are required to maintain professional indemnity coverage with specified minima per claim and in aggregate. Bank branches are allowed to act as agencies under a special derogation clause but the point-of-sale individuals involved are required to be qualified and registered.</p> <p>HANFA maintains agents and brokers registries and this is available on the internet.</p> <p>Fact-find and suitability requirements for B2C business handled by brokers are covered under Article 244 and referenced in Article 256. These are quite advanced in concept but again lack a degree of specificity. For example a standardized fact-find for savings and investment contracts is not specified in the Insurance Act or Ordinances and there is no requirement that these be securely retained for a minimum time after the insurance contract becomes effective.</p> <p>The rules regarding commission payment appear to be appropriate, although there should be an explicit requirement that brokers advise the policyholder if they are receiving commission from an insurance company.</p> <p>Chapter VI of the Consumer Protection Act allows for cooling-off periods (14 days from the date of notification of the right to rescind the contract or the contract's effectiveness date at latest) when sales occur away from the supplier's office. However insurance and securities purchase contracts are exempted from this provision (Art. 31). There is an extensive section on distance sales of financial products in the Consumer Protection Act (Chapter VIII) and this does allow for a 14-day cooling-off period from the date of contract effectiveness for all classes of insurance. As is normal with cooling-off periods, expenses can be deducted.</p>

Recommendation	<p>Intermediaries selling long-term savings products should be required to satisfy examination requirements similar to those of investment advisors.</p> <p>Cooling-off periods should apply to all insurance contracts with a savings or investment element, those with terms of more than 5 years and those which could be considered to be tied to another product or service. Any deductions for services rendered should not include commission payments.</p>
Good Practice B.4	<p><i>Roles of Third Parties</i></p> <p>a. The regulator or supervisor should publish annual public reports on the development, health and strength of the insurance industry either as a special report or as part of their governance disclosure and accountability requirements.</p> <p>b. If credible ratings of claims-paying ability are not available, the regulator or supervisor should periodically publish sufficient information on each insurer for an informed commentator or intermediary to form a view of the insurer's relative financial strength.</p>
Description	<p>The non-banking financial supervisor, HANFA, maintains a comprehensive website in both Croatian and English. An annual overview of the sector is produced and this is supplemented with monthly reports and summaries of the decisions of the meetings of the Management Committee. The site also contains all relevant laws and ordinances, regularly updated aggregate income and expenditure statements and balance sheets, and some basic industry data such as policy and claims counts. It also provides consumers with a list of licensed entities. Additionally, in September 2009 HANFA started publishing on its website unrevised basic financial data for each insurance company.</p> <p>The Insurance Bureau publishes an annual booklet listing all insurers, with details of their senior managements and basic financial information. The booklet also provides some financial data of the insurance industry.</p> <p>Most insurers do not appear to be rated, although the insurers with large European parent companies (Austrian, Italian, Swiss and German) are implicitly rated on the basis of their parents' rating. All insurers have websites and most are available in English. Insurers are obliged to publish their annual financial statements with opinion of certified actuary on their website for the last three years.</p>
Recommendation	<p>The Insurance Bureau should periodically provide basic financial information on each insurer sufficient for an informed observer to form a broad view of an insurer's financial strength.</p>
Good Practice B.5	<p><i>Contracts</i></p> <p>There should be a specialized insurance contracts section in the general insurance or contracts law, or ideally a separate Insurance Contracts Act. This should specify the information exchange and disclosure requirements specific to the insurance sector, the basic rights of insurer and policyholder and allow for any asymmetries of negotiating power or access to information.</p>
Description	<p>The Articles 2 and 96(5) of the Consumer Protection Act, which relate to unfair business practices, appear to override the provisions of the contracts legislation and other relevant special laws, unless there is a carve-out arising from international agreements or conventions adopted by Croatia or "unless otherwise provided in this Act". Under Article 107(2) there is a specific carve-out for formation of contracts under "rules of contract law". The implication is that the Unfair Practices provisions of the Consumer Protection Act no longer override the Obligations Act (as they did in the previous version of the Consumer Protection Act from 2003).</p>

	<p>Insurance contracts legislation is covered under Section 27 of the Civil Obligations Act. This is a rather archaic law in the sense that it posits that the consumer makes an offer to the insurer which is subject to consideration and acceptance (Article 925) and that the consumer is bound to the terms of the “offer” for a period of time, while the insurer is considering the contract. The rules on non-disclosure and misrepresentation in particular are not in line with modern B2C practice.</p> <p>However power asymmetries are better addressed when it comes to claims. For example claims must be paid within 14 days if they are admitted.</p> <p>Section 27 is largely in line with normal insurance legal practice when dealing with general issues such as insurable interest, over-insurance, subrogation and co-insurance.</p> <p>Information transfer is mainly covered in the Insurance Act (Articles 89 and 256), and is in line with current practices in industrial countries (see Section B.3).</p>
Recommendation	<p>The previous rules contained in the 2003 version of the Consumer Protection Act, which had overridden the provisions of the Civil Obligations Act, should be applied to insurance contracts again.</p> <p>The consumer should be able to withdraw from a proposed insurance contract before the insurer issues the policy and a cooling-off period should subsequently apply for certain types of insurance contract (see Section B.3).</p> <p>Ideally the Civil Obligations Act will be updated at some point to reflect modern thinking on B2C contractual relationships.</p>
SECTION C	CUSTOMER ACCOUNT HANDLING AND MAINTENANCE
Good Practice C.1	<ol style="list-style-type: none"> a. Customers should receive periodic statements of the value of their policies in the case of insurance savings and investment contracts. For traditional savings contracts the statement should be provided at least yearly, however more frequent statements should be produced for investment-linked contracts. b. Customers should have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period. c. Insurers should be required to disclose the cash value of a traditional savings or investment contract upon demand and within a reasonable time. In addition a table showing projected cash values should be provided at the time of delivery of the initial contract and at the time of any subsequent adjustments. d. Customers should be provided with renewal notices at least 30 days before the renewal date for non-life policies. If an insurer does not wish to renew a contract it should provide at least a 30-day notice. e. Claims should not be deniable or adjustable if non-disclosure is discovered at the time of the claim but is immaterial to the proximate cause of the claim. In such cases the claim may be adjusted for any premium shortfall or inability to recover reinsurance. f. Insurers should have the right to cancel a policy at any time (other than after a claim has occurred – see above) if material non-disclosure can be established.
Description	Account handling is mainly covered under the Civil Obligations Act (Chapter 27).

	<p>This Act takes a rather dated approach to B2C insurance transactions and, as noted above, needs to be updated to reflect the fact that, in the modern world, insurance is usually marketed by insurers to consumers. As the Civil Obligations Act stands there is no requirement that insurers give fair notice of an insurance policy's renewal date or of a decision on the part of the insurer to not renewing a policy. In addition the rather legalistic approach as to when coverage under a B2C insurance contract starts (Article 937) should be replaced by a clear rule that applies in all cases, unless a clear derogation is agreed. Article 937 does include adequate protection for the consumer in the event that a contractual non-life/ non-accident premium is not paid on time.</p> <p>The above issues notwithstanding, the Civil Obligations Act does contain some relatively modern consumer protection concepts. For example under Article 942 an insurer cannot decline a claim on the basis of a "provision of the contract stipulating a forfeiture of the right to indemnity, if the insured person fails to meet any of the prescribed contractual obligations". In addition situations of non-disclosure that were not relevant to sections of a policy do not vitiate those parts of the contract (Article 932(4)).</p> <p>If an insurer discovers intentional misrepresentation or concealment of material information it can cancel the contract (Article 932(1)). If the non-disclosure was inadvertent the insurer can terminate the contract or adjust the premium with 14 days notice. If the premium increase is not accepted the contract terminates automatically, generating a partial refund of premium. If a claim occurs before misrepresentation or nondisclosure is discovered but after a claim occurs, there is a prorating of the claim based on correct and actual premiums. None of the above sanctions apply if it can be established that the insurer should have been or was aware of the misrepresentation or non-disclosure.</p> <p>Life insurance is handled under Part III of Section 27 of the Civil Obligations Act. The relevant articles allow a policyholder to seek a surrender value after 3 annual premiums have been paid (most traditional policies appear to have no surrender value in the first 2 years, presumably reflecting high commission levels and marketing costs) and the relevant rights of creditors are specified. The rights of policyholders to take out policy loans are also specified (Article 979) although this does not require notification of the interest rate charged and does not appear to allow for a surrender value expiry process. In addition if premiums cease there appears to be no provision to offer a paid-up policy – the surrender value becomes the sum insured which appears to be technically incorrect if the original policy term is maintained.</p> <p>A provision that a life policy can be cancelled if it is proved that the life insured's age is understated appears to be particularly egregious and should be replaced with an adjustment to policy terms, possibly supplemented by a charge for relevant administration costs.</p>
Recommendation	<p>Claims that have already occurred for B2C insurance contracts should not be avoidable (or pro-rated) on the grounds of non-disclosure or non-fraudulent misrepresentation not relevant to the cause of the claim.</p> <p>Life policies should not be cancellable purely on the grounds of age misstatement.</p>
SECTION D	PRIVACY AND DATA PROTECTION
Good Practice D.1	<p>Consumers have a right to expect that their financial activities will have privacy from federal government scrutiny and others. The law ought to require insurers to ensure that they protect the confidentiality and security of customer's information against any anticipated threats or hazards to the security or integrity of such information; and against</p>

	unauthorized access to, or use of, customer information that could result in substantial harm or inconvenience to any customer.
Description	The Insurance Act (Articles 137-139) requires that all policy-related data be kept confidential by the relevant insurer's staff (and ex-staff) and by the supervisory body, except in a set of standard circumstances that are recognized in most countries (e.g. legal proceedings, criminal proceedings, tax investigations, etc).
Recommendation	No recommendation.
Good Practice D.2	<i>Sharing Customer's Information</i> <ol style="list-style-type: none"> a. Insurers ought to explain how they use and share customers' personal information, and should be committed not to sell or share account or personal information to outside companies that are not affiliated with the insurer for the purpose of telemarketing or direct mail marketing. b. The law ought to require "opting in" or allow a customer to stop or "opt out" of certain information sharing within or between financial groups, and in the latter case insurers should be required to inform the customers of their option. c. The law should prohibit the disclosure of information of customers by third parties.
Description	<p>The Act on Personal Data Protection has extensive provisions regarding the use of consumer data. The Act states that data may only be used for the purpose for which it was collected and for purposes known to the consumer, although the "data subject" may agree in writing to a broader usage – an opt-in arrangement (Articles 6 and 7). Data may be used for statistical or research purposes "provided appropriate protection measures are in place" (Article 6).</p> <p>Insurers are required to advise the Personal Data Protection Agency about the creation of a personal data filing system and specified details thereof in advance of the creation or amendment of this database (Articles 14 and 17). This information is available on-line (approximately 40% of Croats have internet access).</p> <p>Individuals have access to their own data records (within 30 days of a request being submitted) and may request that inaccurate information be corrected. Individuals may also request that their data not be employed for direct marketing, and must be informed of any intention to use their data for such purposes. The Personal Data Protection Agency has the power to issue cease and to desist orders affecting personal filing systems.</p>
Recommendation	<p>If a privacy waiver is included in sales documents or insurance contracts, this should be disclosed in a key facts document attached to the sales documentation. Ideally such waivers should be handled through separate opt-in documentation requiring written acknowledgement on the part of the consumer, and should apply to different products and services provided by companies within a financial services group.</p> <p>The availability of basic financial products such as a simple deposit account at a bank should not be tied to the purchase of other products, including insurance products.</p> <p>The protection measures required when data is used for scientific or research purposes should be specified.</p>
Good Practice D.3	<i>Permitted Disclosures</i> <ol style="list-style-type: none"> a. The law ought to state specific procedures and exceptions concerning the release of customer financial records to

	<p>government authorities.</p> <p>b. The law ought to provide for penalties for breach of insurer secrecy.</p>
Description	<p>At present there is no requirement for a key facts document and it is not clear that all consumers are aware as to whether they are granting data privacy waivers when signing financial services agreements.</p> <p>The Act on Personal Data Protection and the Insurance Act precisely specify the conditions under which data may be released to government bodies and the courts (Articles 23 and 138 respectively).</p> <p>Penalties for breach of the privacy rules are specified in the relevant laws (Article 293 of the Insurance Act and Article 36 of the Act on Personal Data Protection) however these appear to be relatively modest.</p>
Recommendation	<p>The fact that a waiver is being signed should be prominently disclosed to a consumer, preferably in a key facts document.</p> <p>More severe sanctions could be considered for breaches of the insurance privacy and confidentiality rules.</p>
SECTION E	DISPUTE RESOLUTION MECHANISMS
Good Practice E.1	<p><i>Internal Dispute Settlement Mechanism</i></p> <p>a. An internal avenue for claim and dispute resolution within the insurer should be required by the supervisory agency.</p> <p>b. Insurers should designate employees to handle retail policyholder complaints.</p> <p>c. The insurer should inform its customers of the internal procedures on dispute resolution.</p> <p>d. The regulator or supervisor should provide oversight on whether insurers comply with their internal procedures on consumer protection rules.</p>
Description	<p>Article 268 of the Insurance Act establishes that if a customer believes that an insurer does not adhere to the conditions set out in the insurance contract, the customer may address a complaint to the relevant entities, including the appropriate organisational unit of the insurer and the internal audit of the insurer.</p> <p>Under Article 273 of the Insurance Act insurers are required to set up internal procedures for settlement of customer complaints, and to provide the customer with this information prior to the conclusion of any insurance contract. However there is no specificity as to how this might be done.</p> <p>Insurers and their representatives are required to make policyholders aware of the availability of internal and out-of-court dispute resolution mechanisms.</p>
Recommendation	<p>An ordinance should specify the appointment of an officer in each insurance company to be responsible for policyholder complaints and for transmitting relevant data (complaints received, complaints settled, complaints referred by type and contract) periodically to the relevant dispute resolution body. This information should also be reported to the supervisory board of the insurer at least annually.</p>
Good Practice E.2	<p><i>Formal Dispute Settlement Mechanisms</i></p> <p>a. An intermediate system should be in place that allows consumers to seek third-party recourse before going to court. This could be an ombudsman or a complaints and inquiries bureau.</p>

	<p>b. The role of an ombudsman or equivalent institution <i>vis-à-vis</i> consumer complaints should be in place and made known to the public.</p> <p>c. The ombudsman's impartiality and independence from the appointing authority should also be assured.</p> <p>d. The enforcement mechanism of the decisions of the ombudsman or equivalent institution, and the binding nature of the decisions on insurers should be in place and publicized.</p>
Description	<p>There is no genuine Ombudsman structure or equivalent in place in Croatia in terms of the commonly understood meaning of the term. The Chamber of Economy offers a mediation service in conjunction with the Croatian Conciliation Association, but this is legalistic and is not specialized in insurance. Sections of the legal profession are hostile to a funded mediation process.</p> <p>Under its authority the Insurance Bureau has begun to implement two recourse mechanisms consisting of what is termed an "Ombudsman" and a mediation service arranged within the Bureau. The Insurance Ombudsman's powers at this stage appear to be equivalent to those of a Court of Honour and thus restricted to breaches of the industry's Code of Insurance and Reinsurance Business Ethics established by the Banking and Finance Department of the Chamber of Economy. This Code has extensive sections dealing with the client relationship, including information to be provided during the sales process and claims processing ethics (part III), and inadmissible conduct (Section 6.3).</p> <p>The Ombudsman's powers do not allow for monetary awards and the worst sanction consists of publicizing a breach of business ethics, in line with the Chamber of Economy's approach.</p> <p>The associated mediation process uses the existing conciliation resources of the country and the Bureau. This service is free to the consumer and results to date appear to have been better than under the alternative approaches. This is attributed to the database and the specialized knowledge available to the Bureau.</p> <p>The Insurance Act requires that the insurers disclose information on the arrangements for out-of-court settlement of disputes as part of the insurance terms and conditions.</p>
Recommendation	<p>The Insurance Ombudsman (or equivalent) should be provided with the power to make property rights decisions for smaller and more straightforward cases, and establish a review board of senior retired legal experts with prior experience in settling complicated consumer insurance cases to deal with such cases. Insurers would ideally not have the right to undertake further legal action after an Ombudsman's decision, although this step could come later once the system is tested.</p> <p>The Ombudsman would also need to have a governance arrangement ensuring its neutrality (e.g. a board including consumers and HANFA representatives as well as market representatives) and transparent reporting of responsibilities.</p>
SECTION F	GUARANTEE AND COMPENSATION SCHEMES
Good Practice F.1	<p>a. With the exception of schemes covering mandatory insurances, guarantee schemes are not to be encouraged for insurance because of the opaque nature of the industry and the scope for moral hazard. Strong governance and supervision are better alternatives.</p> <p>b. Nominal defendant arrangements should be in place for</p>

	<p>mandatory insurances such as motor third party liability insurance.</p> <p>c. Assets covering life insurance mathematical reserves and investment contract policy liabilities should be segregated or at the very least earmarked, and long-term policyholders should have preferential access to such assets in the event of a winding-up.</p>
Description	<p>There are no guarantee arrangements aside from that mandated by the Act on Compulsory Insurance within the Transport Sector (Art. 44). This Guarantee Fund is administered by the Insurance Bureau and covers both domestic nominal defendant claims for Croatian drivers (when the guilty party cannot be identified or is uninsured) and the bankruptcy of an insurer writing motor third party businesses.</p> <p>Assets covering both non-life technical provisions and life mathematical reserves of insurers have to be identified and the latter have to be segregated and be handled through a separate bank account (Insurance Act, Articles 114-128). Overall these requirements are generally stronger than the EU requirements specified in the Wind-Up Directive and are in line with best practices.</p>
Recommendation	No recommendation.
SECTION G	CONSUMER EDUCATION AND FINANCIAL LITERACY
Good Practice G.1	<p><i>Use of Mass-media</i></p> <p>a. The press should be encouraged to actively cover issues related to retail financial products.</p> <p>b. Regulators and/or industry associations should provide sufficient information to the press to facilitate analysis of related issues.</p>
Description	<p>There is one specialized magazine "<i>Svijet osiguranja</i>" (The World of Insurance), which mainly includes market analyses and articles on the insurance and reinsurance market, but also follows the markets of pension and investment funds. This magazine has been coming out for ten years, runs 3,000 copies and is distributed by Tectus to clients not only in Croatia, but also in Bosnia-Herzegovina, Montenegro, Macedonia, Slovenia and Serbia. Besides the magazine, Tectus started a TV show "<i>Svijet osiguranja</i>" five years ago and a radio show three years ago. Through these shows, there are discussions, interviews with guests and answers to public's questions made directly. In addition, Tectus indicates in its website that they receive inquiries, via phone and e-mail, from the readers of the magazine and viewers of the website, which are derived to legal experts. Finally, they also organize round tables and seminars, and hold a yearly conference "Information and Communications Technology and Insurance" since 2000.</p> <p>In addition to <i>Svijet osiguranja</i>, there are specialized financial segments in TV programs, like "Good Morning, Croatia".</p> <p>There is no evidence of collaboration between the government, HANFA and the media to improve consumers' financial literacy. HANFA is deemed to have a proactive attitude reaching out the media, but there are complaints on the general attitude of the press, as being more interested in sensationalism instead of providing useful information.</p>
Recommendation	There is a clear need for improving the competency level of the media staff. HANFA and the Insurance Bureau should approach the media and train them on basic financial services matters to enable them to analyze and provide informed opinions to consumers.

Good Practice G.2	<p>Formal Consumer Dissemination and Assistance</p> <p>a. The government and regulators ought to put in place formal consumer information dissemination and assistance to improve consumer awareness and knowledge.</p> <p>b. The government should develop a strategy for including financial education as part of the general education curriculum.</p>
Description	<p>HANFA has developed a consumer awareness program, consisting of two stages: media campaign and website redesign. This program has as a battle phrase an expression used in daily life: "You have the right to know" (which is presented as "? Imate Pravo ! Znati", using a logo made by a renowned Croatian designer, Boris Ljubivic).</p> <p>This program received the attention of the media even before it was officially launched by HANFA. A quick search on Google with the words "<i>Imate Pravo Znati Hanfa</i>" resulted in at least a dozen of different websites dealing with HANFA's <i>kampanja</i>.</p> <p>Media campaign</p> <p>This campaign consists, first, of a series of TV spots where a popular actor or actress talks about financial issues in a simple way during 25 seconds. A renowned director filmed the first couple of TV spots, one related to capital markets and the other to pension funds. These are the first spots on a series that HANFA has planned to produce during this year. They are expected to be aired on national television starting on May and throughout the year. HANFA is planning to run surveys every 3 months to check on the impact of the campaign on the consumers.</p> <p>The second element of the media campaign is the production of TV studio programs to be aired in HRT (Croatian Radiotelevision) once a week, between 4:50 and 5:00 pm. In these programs, an expert will talk about different financial issues that are relevant for the market.</p> <p>Website redesign</p> <p>HANFA has redesigned its entire website and one of the main changes has been the introduction of a new Consumer Services section, which pops up to a new website dedicated to consumer issues (http://edukacija.hanfa.hr/). At present, the website contains sections on: basic questions about financial markets, the two TV spots mentioned above and TV interviews with HANFA staff, and four excel files providing tools for individual financial planning. In the future, this website is expected to have 5 sub-sections: capital markets, investment funds, pension funds, insurance and leasing. Each sub-section would include a brief storyline describing the market and the entities, a series of information that the customers should ask for, sources the customers could look for advice, and list of frequently asked questions.</p> <p>The new section "Journalists ask, Hanfa responds" has been introduced on HANFA's website. The section publishes inquiries submitted by journalists along with their replies prepared by HANFA, with the aim of ensuring a high level of transparency. General public has found this section interesting and informative, as the approach goes beyond the usual format of frequently asked questions.</p> <p>Education</p> <p>Besides the new consumer awareness campaign, HANFA started to conduct a series of workshops and seminars in 2008, dealing with the changes in legislation and the alignment with EU directives. HANFA has planned training seminars for brokers, investment advisors and other industry professionals (following the lines of previous</p>

	<p>trainings set up together with ZSE, for example), as well as educational workshops for non-industry professionals, such as lawyers, notaries, judges, police, journalists and others.</p> <p>In addition, HANFA has released two handbooks: "New Capital Market" (December 2008) and "Insurance Market" (March 2009). Both have been published in printed and electronic versions, and are written in a style that is easy to read and understand by the general public. The main objective of the "Insurance Market" is to educate present and future consumers on key terminology regarding the insurance sector. The handbook includes basic information on insurance products, providers and supervision, consumer rights and obligations regarding insurance contracts, claim settlement process, institutions where consumers can lodge complaints, among other information.</p> <p>HANFA sees his role in consumer awareness and education as part of his legal mandate, specifically under Article 14 of the Act on the Croatian Financial Services Supervisory Agency. This Article establishes that HANFA shall be governed by three principles, including that of "confidence among participants of the financial markets"; in addition, it states that HANFA "shall acquaint the public with the role and manner of functioning of the financial system, including the development of awareness of the benefits and risks that are connected with various types of investments and financial activities".</p> <p>The government has not developed a strategy for including financial education as part of the general education curriculum. In addition, there is no study or survey on the level of financial literacy of consumers in the insurance market.</p> <p>Regarding civil society, it is important to mention the establishment in 2007 of the first NGO specialized in financial issues: <i>Životuplusu - Udruga za Planiranje Osobnih Financija</i> (Personal Finance Counseling Service). <i>Životuplusu</i> attempts to "help people overcome financial problems and get a better perspective and greater control over their financial situation". It has been organizing roundtables dealing with financial issues, including financial planning and has approached the European Financial Planning Association in order to get support for future projects. It is important to note that <i>Životuplusu</i> is not a consumer association but an NGO.</p>
<p>Recommendation</p>	<p>HANFA should take the opportunity of its website redesign to include "consumer alerts" that provide consumers with up-to-date information on scams or schemes from unauthorized financial institutions, and other relevant financial consumer protection issues.</p> <p>An initial financial literacy survey should be conducted as a baseline analysis of the current financial literacy levels in the Croatian population, with a follow-up survey three to five years later. The financial regulator and industry associations should play a role in the elaboration of the survey, to make sure that the issues relevant to the insurance market are covered.</p>

Croatia: Consumer Protection in the Pensions Sector

Croatia has installed a classical 3-pillar pension system, with 30% of the population registered in the mandatory private pension funds. There are more than 1.4 million members in the mandatory second pillar from a population of approximately 4.6 million. While the second pillar's contribution rate is relatively low at 5%, funds under management have grown rapidly since the system began to operate in 2002, reflecting high compliance levels and good real rates of return. As of December 2008 there were HRK 23 billion under management through mandatory arrangements and HRK 800 million through voluntary arrangements.

Pension funds in Croatia have “no legal personality” and are similar to life insurance segregated funds (rather than being mutual organizations where members are responsible for the financial state of a self-managing legal entity). They are managed by commercial “pension companies” and much of the relevant law is concerned with prudential and operational controls over the activities of these entities. Croatia has sensibly not fragmented the various activities involved in running a pension fund.

Each mandatory fund is only allowed one manager and consolidation rules applied until 2007, where a fund had to attract at least 80,000 account holders within 3 years to remain in the market. This situation led to some early mergers and acquisitions. Every employed person in Croatia who has joined the mandatory system is only allowed one account at a time. In contrast the minimum number of members for a voluntary pension fund is 2,000 (also after 3 years) and eligible individuals are allowed to hold more than one voluntary pension fund account.

All contributions to mandatory funds are initially remitted to a best-practice information clearing house called the Central Registry of Insured Persons (REGOS). REGOS carries out relevant individual record-keeping. When initially becoming eligible to join a mandatory fund, individuals are required to sign the relevant forms and choose a fund in neutral surroundings such as an office of the Financial Agency (FINA). Only information provided by HANFA (the non-bank financial supervisory agency) may be visible at this stage. To date between 80% and 90% of eligible new members have elected to be randomly allocated to a mandatory fund. While it is strictly not necessary, mandatory pension companies maintain individual member records and would probably prefer to continue to do so as consumer databases are seen to have value.

There are 25 funds in the Croatian pensions system. The system is composed of 4 mandatory second pillar pension funds, 6 voluntary open-ended pension funds (i.e. retail funds) and 15 voluntary closed-ended pension funds (i.e. employer- or association-based). Retirement under the second pillar occurs at the same time as retirement under the first pillar. Each of the current licensed second-pillar managers is associated with a foreign financial institution and two of them (Raffaisen and Az) hold more than 32% of total members each.

At the end of 2008, there were 1.48 million mandatory pension funds' account holders, 128 thousand open-ended voluntary pension funds' account holders and 17 thousand closed-ended voluntary pension funds' account holders. Voluntary pensions are eligible for return enhancement via a governmental contribution subsidy of 25% of the employee's contribution (subject to a flat cap). As seen in Table 8, the number of members in the voluntary pension open funds is growing rapidly.

The decumulation arrangement would appear to be one of the main weaknesses in the existing system. The economic capital required to back the indexed life annuities can be very

high given reinvestment and longevity risks¹⁴. In addition, the system is dependent on a single regulated private annuity provider. An indexed participating life annuity has to be purchased with the proceeds of the mandatory second pillar, although this may incorporate term certain and survivorship options. The compulsory nature of the annuity choice under the second pillar is forced by the need to prevent selection effects and the decision to use unisex mortality assumptions.

Voluntary pensions can be taken after age 50 and up to a 30% commutation is allowed. In addition term annuities for periods as low as 5 years can be taken, and they will inevitably provide much better value for money than life annuities. In the normal course of events a voluntary pension's life annuity would provide less value for money than a mandatory pension's life annuity because of the additional capital needed to cover selection effects.

For mandatory life annuities Croatia could possibly consider something along the lines of the Swedish system. In this system, the cost of capital is removed from the equation by having a partially self-balancing State-based arrangement that adjusts payments according to the results of ongoing annuitant mortality investigations. This would lead to larger initial annuities and the possibility of a flatter income stream over time, possibly reducing in real terms. Regardless of which approach is adopted, the current approach is unsustainable as the capital needs driven by incoming annuitants will eventually overwhelm the current monopolist supplier.

As the mandatory system is approaching a degree of maturity, the only way in which substantial market share changes will occur in future is through switching. This reality is beginning to be reflected in increasing commissions paid to the pension fund's representatives/agents, which are now becoming more active in canvassing existing members of mandatory pension funds. Commissions for switching members tend to be flat as information on balances and contributions has been successfully held confidential. Approximately 2% of mandatory fund members switched in 2006 and there is now some data emerging that suggests that members who are switching tend to be in the lower-income and less well-educated sections of the population.

In this regard, it is relevant to note that pension funds in Croatia have some of the characteristics of standard retail collective investment vehicles. For example, back-end charges apply if a member decides to switch funds within a few years of joining a fund (0.8% in the first years reducing to zero in the fourth year). These back-end loads (originally designed to discourage early switching) are seen as a formal part of the income of pension companies as caps apply to the charges on contributions and assets under management (AUM) – 0.8% maximum on contribution and 0.95% for AUM. Overall charges amount to a little over 1.0% of AUM, which is comparable with retail mutual fund charges in industrial markets. The charges would be considerably higher if the national budget did not cover REGOS' costs (estimated at 1% of AUM for the mandatory pillar).

Another special feature of the Croatian system is the very high initial and ongoing capital requirements of pension companies. Mandatory pension companies must have a minimum initial capital of HRK 40 million, of which at least 50% must be maintained at all times. Voluntary pension companies require an initial minimum capital of HRK 15 million. Additional capital of HRK 1 million is required by a mandatory pension company for every additional

¹⁴ See for example Olivieri, a. and Pitacco, E. Solvency requirements for pension annuities, http://journals.cambridge.org/download.php?file=%2FPEF%2FPEF2_02%2FS1474747203001276a.pdf&code=03a38a274c300d1cd36eebf438633b36

10,000 members (over and above 100,000 members). The onerous second pillar's capital requirements presumably reflect the financial risk inherent in return guarantees that have to be underwritten by the reserves and capital of the pension companies (and ultimately the State)¹⁵.

Table 8: Growth in Number of Members of Second and Third Pillar Funds

	2002	2003	2004	2005	2006	2007	2008
Number of 2 nd Pillar's Account Holders (thousands)	983.3	1,070.9	1,170.1	1,248.9	1,322.0	1,395.7	1,475.7
Growth rate (%)		8.9	9.3	6.7	5.8	5.6	5.7
Number of 3 rd Pillar's Account Holders (thousands)	1.3	8.8	31.1	56.5	85.8	115.9	145.0
Growth rate (%)		552.2	254.9	81.3	52.0	35.1	25.2

Source: HANFA

Aside from own staff, three classes of pension intermediaries are acknowledged by the Mandatory and Voluntary Pension Funds Law. These are brokers, agents/ representatives (Article 66) and investment advisors. However only investment advisors and brokers need to pass examinations and be registered. The specific roles and responsibilities of the three categories of intermediary are not defined anywhere in the pension law or regulations.

The major public awareness issue affecting the supplementary pension sector is the plight of a number of individuals (mainly women) who partially opted out of the first pillar under a provision available to those between the ages of 40 and 50. Membership of the second pillar was mandatory for those under 40 at the time of its introduction. Many of these individuals made their election based on a bequest motive (i.e. their second pillar's balance can be passed on to dependents) and most evidently assumed that they would continue working for a considerable number of years. A number of these individuals are now retired and worse off than if they had stayed solely in the first pillar's social transfer arrangement. This situation could be seen as a consumer protection issue, depending on the information and incentives that were provided at the time the individuals concerned made their election and on the circumstances surrounding their early retirement. However it is worth to note that an extensive public campaign was conducted before and during the implementation of the new pension system, through a wide range of communication channels (television, press, radio, internet, dedicated telephone lines, etc.)¹⁶ HANFA notes that, according to a survey conducted after the campaign, the general public was well informed on the pension system reform.

Legal Framework

The privately managed pension sector has a relatively self contained and integrated body of governing legislation. The main statutes are the Mandatory and Voluntary Pension Funds Law (OG 49/1999, OG 63/2000, OG 103/2003, OG 177/2004 and OG 71/2007) and the Law on Pension Insurance Companies and Payment of Pension Annuities based on Individual Capitalized Savings (OG 106/1999, OG 63/2000 and OG 107/2007). These are supported by a range of consumer protection sub-laws (ordinances) covering the marketing of pension funds, prospectuses, switching between funds, allocation of members to funds and professional training of brokers, investment advisors and fund managers.

¹⁵ International rules of thumb for the cost of operational risk alone lie between 0.5% and 1.0% of AUM.

¹⁶ During the transition period in 2002 HANFA set up a provisional calculator on its website enabling potential 'opt-out' members of the second pillar to compare possible outcomes.

Institutional Arrangement

The relevant supervisor of the pensions sector (HANFA) is also responsible for all non-banking financial institutions. It was established by the Act on the Croatian Financial Services Supervisory Agency (OG 140/2005) effective in November 2005. HANFA has particularly demanding supervisory responsibilities under the Mandatory and Voluntary Pension Funds Law, which is the responsibility of the Ministry of Economy, Labor and Entrepreneurship.

There are other key institutions associated with consumer protection in private pensions. These institutions are the Central Registry of Insured Persons (REGOS) which keeps the official member records and collects all contributions, the taxation authority which is responsible for enforcement and on-site compliance inspections, and public entities such as the Financial Agency (FINA) which provides funds payment and transfer infrastructure.

Good Practices: Pensions Sector

NOTE: Unless otherwise stated references to Articles in laws refer to the Mandatory and Voluntary Pension Funds Law.

SECTION A	CONSUMER PROTECTION INSTITUTIONS
Good Practice A.1	<p><i>Legislative Framework</i></p> <p>The legal system should recognize and provide for clear rules on consumer protection in the area of private pensions and there should be adequate institutional arrangements for implementation and enforcement of consumer protection rules.</p> <ol style="list-style-type: none"> a. There should be specific legal provisions in the law which creates an effective regime for the protection of consumers who deal with pension entities. b. There should be a general consumer agency or a specialized agency, responsible for the implementation, oversight and enforcement of consumer protection, and data collection and analysis (including complaints, disputes and inquiries). c. The legal system should provide for a role for the private sector, including voluntary consumer protection organizations and self-regulatory organizations.
Description	<p>The law dealing with privately managed supplementary pension funds and annuitization of accumulated balances at retirement is comprehensive and largely self contained. Virtually all relevant provisions may be found in the Mandatory and Voluntary Pension Funds Law which was implemented in 2002 and the Law on Pension Insurance Companies and Payment of Pension Annuities Based on Individual Capitalized Savings. Sub-laws (ordinances) elaborate on various key consumer protection matters:</p> <ul style="list-style-type: none"> • Marketing of Pension Funds • Informative Prospectuses of Pension Funds • Informative Prospectuses of Voluntary Pension Funds • Manner of Transferring the Mandatory Pension Fund Member’s Account • Manner of Allocating Insured Persons to Mandatory Pension Funds and Informing them of the Allocation • Requirements for Professional Training and Examination of Technical Knowledge needed to obtain an Authorization or License to conduct activities of a Broker, Investment Advisor and Authorized Pension Fund Manager <p>Consumer protection during the accumulation stage is mainly effected through very strict rules regarding the responsibilities, financial strength, operating modes and reporting requirements of the pension companies that manage the pension funds. While the pension companies are standard legal entities under Croatian law (either joint-stock or limited-liability companies), both mandatory and voluntary pension funds have no “legal personality” of their own although they hold segregated funds, with each member having full equity in their share. They are owned by their members (Article 35) but are more like cooperatives than mutual entities, as the attendant pension company is primarily responsible for the financial and operational integrity (largely effected by return guarantees and attendant reserves) of the pension fund(s) it manages and promotes (Article 58).</p>

	<p>A dedicated pension company is required for each mandatory (second pillar) pension fund, while a pension company can manage more than one voluntary pension fund, each offering a different investment profile.</p> <p>Retirees are obliged to purchase an annuity from an annuity insurer, although members of voluntary pension funds can take up to 30% of their accumulation as a lump sum. Retirees from a mandatory pension fund are required to purchase a life annuity with their full accumulation.</p>
Recommendation	No recommendation.
Good Practice A.2	<p><i>Other Institutional Arrangements</i></p> <p>a. The judicial system should provide credibility to the enforcement of the rules on consumer protection.</p> <p>b. The media and consumer associations ought to play an active role in promoting consumer protection.</p>
Description	<p>There are no references to specific recourse mechanisms under the Mandatory and Voluntary Pension Funds Law. Article 66 refers to the possibility of mis-selling under a switching scenario – “A pension company which by the use of personal contact by an employee, representative or agent of the pension company or related person persuades a person to cease membership in a mandatory fund and to become a member of the mandatory fund governed by that company, must be able to demonstrate that at the time of persuasion it primarily had in mind the best interests of that person”.</p> <p>The Ordinance on Marketing (OG 65/2001), Article 8(2) provides for attributed written complaints to be submitted to HANFA. HANFA may then issue a warning to the pension company involved and in the case of repeat offences, withdraw the company’s license to operate. However there is no reference to individual members’ recourse. The underlying assumption appears to be that the “belts and braces” approach adopted in the pension funds regulation (including complete segregation of assets and their being placed with separate and unrelated custodians) and supervision obviates any need for an active consumer protection overlay.</p> <p>The Consumer Protection Act provides for consumers to file a proposal for mediation with the Conciliation Centre of the Croatian Chamber of Economy. This is seen to be a legalistic and bureaucratic process and potentially expensive. Consumers also have a constitutional right to go straight into litigation. However the courts are seen as being very slow and possibly subject to influences not directly reflecting the merits of the case being brought. The successful establishment of a specialized Court of Honour and mediation service within the Insurance Bureau points to a trend towards arrangements that can deal with the specialized nature of financial services legislation and the interpretation of the body of facts attached to each case.</p> <p>The State Inspectorate in charge of the enforcement of the Consumer Protection Act does not have the authority to settle individual disputes, although it may prevent a product or service from being sold in certain circumstances such as non-performance under a contract and mis-labeling. Most grounds for such action do not appear to be relevant to the financial sector.</p> <p>There are 26 consumer NGOs active in Croatia operating under 2 umbrella organizations. Four of these NGOs have been elected to be regional Consumer Counseling Centres, handling consumer complaints and inquiries. Two NGOs deal more with financial sector products. Data for the first few years of operation would indicate that these entities are in practice not used very often where financial services are concerned.</p>

	<p>The media and consumer associations appear to play little or no role in positively educating and informing the public about retail financial products, with this role largely falling to HANFA and the Ministry of Economy, Labor and Entrepreneurship. What media involvement there is, it appears to be largely focused on sensationalism.</p>
Recommendation	<p>HANFA should continue evaluating the setup of a non-bank financial institution's consumer disputes and inquiries facility. This should have full ombudsman powers according to international practice, and preferably build on the work already done by the Insurance Bureau.</p>
SECTION B	DISCLOSURE AND SALES PRACTICES
Good Practice B.1	Disclosure principles cover the consumer's relationship with the pension entity in all three stages of such relationships: pre-sale, point of sale, and post-sale. The nature, clarity and extent of information available and provided to the consumer need to inform the consumer of choice of accounts, products and services.
Description	<p>Disclosure rules are broadly similar for mandatory and voluntary pensions, although they each have their own Ordinance regarding prospectuses. Prospectuses must be updated annually not later than March 31st and detailed information is required under the following headings for both mandatory and voluntary pension funds:</p> <ul style="list-style-type: none"> • Data on the fund • Data on the pension company • Data on the custodian bank • Data on the Croatian Agency for Supervision of Pension Funds and Insurance (HANFA/HAGENA) • Data on the rights of fund members <p>In addition the prospectus for mandatory funds must contain:</p> <ul style="list-style-type: none"> • Information about REGOS • Published financial information for the last year as required by Article 89 of the Mandatory and Voluntary Pension Funds Law. <p>At the time an individual first joins a mandatory pension fund they may examine the prospectuses of the 4 funds on line – only HANFA's information is provided when they sign up and make an election (or not).</p> <p>Article 115 of the Mandatory and Voluntary Pension Funds Law requires that the rules of the voluntary fund being marketed be disclosed to a person before he or she joins (any amendments have to be disclosed to members within 8 days and cannot be to their disadvantage). The latest prospectus of the voluntary fund is normally provided at the same time as the contract. Article 64 prohibits pension funds to offer any collateral benefits to a person, an employer or a trade union with the purpose of persuading a person or employee to join a fund or remain as member.</p> <p>There is no reference to the role of agents, brokers or investment advisors in the supplementary pension law and thus no reference to the information that they should provide the proposed member with at entry or upon a switch. Potentially undesirable incentives are built into the system because the revenues of mandatory funds officially includes back-end loads (exit fees) which can be as high as 0.8% of AUM, and annual AUM and contribution charges are capped. Overall the combination can lead to high charges although taken individually the charges appear reasonable (and even low in the case of contributions).</p>

Recommendation	<p>The main problem of the Mandatory and Voluntary Pension Funds Law concerns the definition, qualifications and registration of employees, agents and representatives that can influence an individual to switch mandatory plans or take out a voluntary pension arrangement. This gap should be filled by appropriate amendments to the law. In addition the law should specify the roles of investment advisors and brokers in the pensions sector.</p> <p>Members of mandatory funds should be advised if a pension fund's intermediary will receive commission or any other benefit as a result of the member switching funds. Investigations should be undertaken of market-friendly techniques being developed elsewhere to restrict non-productive switching (which can reduce the long-term value of a member's funds and add unnecessarily to the overall costs of what is already a subsidized system).</p> <p>Charging structures could be further reviewed (they have been amended already) to eliminate the back-end fee and possibly place more load on the contribution, which would reduce the overall expenses to members over time.</p>
Good Practice B.2	<p><i>Formal Product Disclosure</i></p> <ul style="list-style-type: none"> a. There should be clear rules on solicitation and issuance of pension products. b. Pension entities should ensure their advertising and sales materials and procedures do not mislead the customers. c. The pension entity should be legally responsible for all statements made in marketing and sales materials related to their products. d. All marketing and sales materials should be easily readable and understandable by the average public. e. A key-facts document should be presented by the pension entity before the employee signs a contract, disclosing the key factors of the pension scheme and its services.
Description	<p>There is an overriding ban on any information however transmitted (including orally) that may "give a misleading or false impression or convey false information" (Mandatory and Voluntary Pension Funds Law, Article 65(1)). HANFA has full oversight of all advertising and promotional material issued by pension companies and it may require that a pension company issue a public rebuttal (Art. 65(6)) if it is concerned that the information produced may be misleading or if the advertising was not first cleared (Ordinance on Marketing, Article 6). In addition HANFA specifies format and assumptions that a pension company can use in its benefit illustrations (Mandatory and Voluntary Pension Funds Law, Article 65(2)).</p> <p>There is no mention of key-fact statements in the law. The annual prospectus usually provided with the contract for voluntary pensions is approximately 12-page long and as noted earlier quite comprehensive.</p>
Recommendation	<p>There should be a requirement that a key-facts statement in large print and on a contrasting background be provided at the front of all pension sales documents and contracts for voluntary pensions.</p>
Good Practice B.3	<p><i>Special Disclosures</i></p> <ul style="list-style-type: none"> a. Pension entities should disclose information relating to the products they offer, including investment options, risk and benefits, fees and charges, restrictions on transfers, fraud protection over accounts, fee on closure of account. b. Clients should also be provided with meaningful, written information on essential terms of the agreement with the pension entity.

	<p>c. Information on planned fee changes should be notified to the consumer within a “reasonable period” before the date of change.</p> <p>d. Pension entities should inform upfront the nature of any guarantee arrangements covering the pension products.</p> <p>e. Customers should be informed upfront on the time, manner and process of disputing information on the statements and transactions.</p>
Description	<p>The relevant information sections of the Mandatory and Voluntary Pension Funds Law provide for very comprehensive information to be provided to members timely and on a regular basis, including through independent entities such as REGOS and the various custodians (Articles 80, 87, 88). This Law also has full provision for timely notification of any changes in the pension funds regulations and in any event these may not adversely affect a member’s rights and entitlements.</p> <p>Given that there is only one fund per mandatory fund pension company, that there are relatively restrictive investment rules in place and that there is a (relatively mild) minimum guaranteed return formula for mandatory funds, there is little scope for meaningful investment-style differentiation of mandatory funds. This is perhaps reflected in the fact that only 10% to 20% of new members actually elect a fund and that the switching rate has been well contained to date.</p> <p>The relevant annuity insurance contract wording rules are more in line with insurance statutes (Article 46 of the Law on Pension Insurance Companies) although tailored to annuity contracts, and require inclusion of such supplementary key facts as receiving bank account numbers. Contract wordings have to be submitted to HANFA at least 2 months prior to marketing and the agency has up to a month to require amendments thereto. Any changes in pricing have to be advised to HANFA at least one day before they take effect and a full actuarial justification has to be included.</p> <p>Market feedback indicates that HANFA is the main recourse if a member has a complaint and that HANFA officers react expeditiously if there is a material issue to be resolved.</p>
Recommendation	<p>The Mandatory and Voluntary Pension Funds Law should specify that a prospectus (with a key-facts statement) will be provided to a prospective member of a pension fund before they join or switch to a fund. For mandatory funds these should be available, without promotional material or benefit projections, at the time a member is making an election.</p>
Good Practice B.4	<p><i>Selling Pension Products</i></p> <p>a. Marketing personnel and officers selling and approving transactions should have sufficient qualifications and competence, depending on the complexities of the products they sell.</p> <p>b. Pension entities should examine important characteristics of the customer such as age and financial position before recommending a particular pension product.</p>
Description	<p>There is no reference as to who is authorized to market or sell supplementary pension products under Croatian law, but by implication it is employees and agents/representatives of the pension company and appropriately licensed independent brokers and investment advisors.</p> <p>Demanding initial qualifications and examination requirements for brokers and investment advisors are laid out in the Ordinance on the Requirements for Professional Training and Examination of Technical Knowledge needed to obtain an Authorization or License to conduct activities of a Broker, Investment Advisor and</p>

	<p>Authorized Pension Fund Manager. The educational programs require at least 60 hours of lectures and all applicants must have university-level education. The curricula for the 3 types of certification appear to be generally appropriate, although there is no mention of risk management in the Fund Manager section.</p> <p>There is no reference to fit-and-proper requirements for those interfacing with members or potential members in the Ordinance, although there are relevant requirements in the sections of the Mandatory and Voluntary Pension Funds Law covering the governance structure of pension companies (Articles 14 and 15). A member of the management of a pension company must also have passed the Authorized Fund Manager Examination and completed the associated educational requirement.</p> <p>Given the nature of the second pillar, the fact-find and suitability criteria are largely irrelevant. However there are no such requirements for persons providing advice on voluntary pensions.</p>
Recommendation	All persons who provide advice at the time a consumer is joining a voluntary pension fund or contemplating switching mandatory pension funds should be qualified to at least the level of a pension fund broker (see Article 9 of the relevant Ordinance). In addition a suitable, and preferably standard, record of the information acquired from the consumer and reasons given for the advice provided should be retained by the pension company for a minimum period to be specified by HANFA.
Good Practice B.5	<p><i>Disclosure by the Pension Entity</i></p> <ul style="list-style-type: none"> a. All pension entities should disclose information regarding their financial position and profit performance. b. The regulator or supervisor ought to publish annual public reports on the development, health and strength of the pensions industry either as a special report or as part of the disclosure and accountability requirements under the law governing it.
Description	<p>Articles 88, 89 and 90 of the Mandatory and Voluntary Pension Funds Law include comprehensive requirements regarding the reporting of pension companies, both to the general public and to HANFA and REGOS. The information going to the two public bodies is very granular and includes such matters as monthly asset class listings and valuations, brokerage fees, custodian fees and the remuneration of officers and directors of the pension companies. Information for the annually updated public prospectus must be audited.</p> <p>HANFA maintains an excellent website in Croatian and English including up-to-date data on the pension sector, an annual overview of the various sectors for which it is responsible, listings and downloadable versions of all applicable laws and ordinances, and updates on decisions taken.</p>
Recommendation	No recommendation.
Good Practice B.5	<p><i>Contracts</i></p> <p>There should be consistent contracts for pension products and the contents of a contract ought to be read by the customer or explained to the customer before it is signed. There should be a cooling-off period associated with any voluntary pension product.</p>
Description	<p>This good practice does not apply to mandatory pensions where all documentation is subject to very tight regulatory and supervisory controls.</p> <p>Article 109 of the Mandatory and Voluntary Pension Funds Law states that "a person shall join a voluntary pension scheme by concluding a contract with a</p>

	<p>selected voluntary pension fund". It also states that "if a member of a voluntary pension fund temporarily ceases to pay contributions to a particular pension scheme, he/she shall continue to be a member of that fund". Under Article 113 employer-sponsored voluntary pension arrangements cannot be discriminatory.</p> <p>Under Article 115 HANFA establishes the rules of a voluntary pension fund at the same time as issuing a license to the attendant pension company, and must subsequently approve any changes to the rules. As noted earlier a prospective member must be advised of the rules before entering formal membership of a voluntary pension fund.</p> <p>The terms of annuity contracts cannot be modified for individual applicants and a 5-day guarantee period applies once a quote has been provided to the prospective annuitant (Article 40 of the Law on Pension Insurance Companies).</p> <p>There is no requirement for a cooling-off period for pension funds. However it could be argued that the relevant section of the Consumer Protection Act applies as, unlike insurance and securities, supplementary pensions are not explicitly exempted from Chapter VI. In addition formal membership does not take place until the first contribution is made, so entry is to some extent at the discretion of the prospective member.</p> <p>Under Article 50(1) of the Law on Pension Insurance Companies there is a 15-day cooling-off period. However this is moot given that there is only one licensed supplier of annuities.</p>
Recommendation	No recommendation.
SECTION C	CUSTOMER ACCOUNT HANDLING AND MAINTENANCE
Good Practice C.1	<ul style="list-style-type: none"> a. Timely delivery of periodic statements and alerts pertaining to the accounts and at frequencies and in the form agreed between the customer and pension entity, are important. b. Customers should receive a regular streamlined statement of their account that provides the complete details of account activity in an easy-to-read format, making reconciliation easy. c. Customers ought to have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period. d. When customers sign up for paperless statements, the pension entity should ensure that the consumer is able to read and understand such online statements.
Description	<p>The Mandatory and Voluntary Pension Funds Law covers reporting to members under Article 80 (including reporting of unit values at least monthly) and REGOS is required to issue statements to fund members of the number of units standing to their account(s) according to a time schedule established by HANFA (Article 35). Only REGOS statements have official standing as records of ownership and value. REGOS is also required to annually provide to each member a written statement showing the asset value of his/her account, amounts and dates of payment contributions and transfer payments made by the member (Article 87(1)). The pension companies also provide contribution information online, partly so that employees can confirm that contributions have been remitted.</p> <p>REGOS also provides a call centre facility for pension fund inquiries and is required to monitor and measure insured persons' satisfaction and complaints.</p> <p>For a fee the member of any fund may request ad-hoc statements of position (Article 87(2)). However there appear to be no standard detailed reporting rules for</p>

	<p>the members of voluntary pension funds. In practice members apparently receive a hard copy statement once a year. Members have access to online personal account statements and information through the REGOS website. A personal identification number (needed to access a member's personal account) is issued to the member during the registration process. However there appears to be no formal system of preparing members to access, use and understand paperless statements.</p> <p>No dispute mechanism is established by the Mandatory and Voluntary Pension Funds Law, however as noted above HANFA acts quickly if there are legitimate unresolved complaints.</p>
Recommendation	Where paperless statements are available for individual accounts the members should be provided with instructions on how to securely access and use the information.
SECTION D	PRIVACY AND DATA PROTECTION
Good Practice D.1	Customers of pension entities have a right to expect that their financial activities will have privacy from federal government scrutiny and others. The law ought to require pension entities to ensure that they protect the confidentiality and security of customer's information against any anticipated threats or hazards to the security or integrity of such information; and against unauthorized access to or use of customer information that could result in substantial harm or inconvenience to any customer.
Description	<p>The Mandatory and Voluntary Pension Funds Law contains no stipulations concerning the confidentiality of member records.</p> <p>REGOS outsources certain functions to a number of public entities including FINA, the Croatian Pension Insurance Institution and the Data Processing Centre of the City of Zagreb, and performs regular security checks and risk assessments with its service providers. Data security is ensured using special algorithms and procedures designed by the US National Institute of Standards and Technology.</p> <p>The Law on Pension Insurance Companies contains confidentiality requirements (Article 13) and specifies the conditions under which data may be released to an authorised body.</p> <p>The Act on Personal Data Protection (OG 103/2003, as last amended by OG 41/2008) has extensive provisions regarding the use of consumer data. The Act states that data may only be used for the purpose for which it was collected, although the "data subject" may agree in writing to a broader usage (Articles 6 and 7). Organizations establishing consumer databases are required to advise the Personal Data Protection Agency about the creation of a personal data filing system and specified details thereof (Articles 14 and 17) within 15 days of the creation or amendment of such a database in cases where special legislation specifies the setting-up of such a database. This information is available online (approximately 40% of Croats have internet access).</p> <p>Individuals have access to their own data records (within 30 days of a request being submitted under the Act on Personal Data Protection but much sooner in practice for supplementary pensions) and may request that inaccurate information be corrected. Individuals may also request that their data not be employed for direct marketing, and must be informed of any intention to use their data for such purposes. The relevant Agency has the power to issue cease-and-desist orders affecting personal filing systems.</p>

	In practice it appears that non-monetary information about plan members is becoming available to agents/representatives of the various mandatory funds, possibly through employers.
Recommendation	No recommendation.
Good Practice D.2	<p><i>Sharing Customer's Information</i></p> <ul style="list-style-type: none"> a. Pension entities should inform the consumer of third-party dealings for which the pension entity should share information regarding the consumer's account. b. Pension entities ought to explain how they use and share a customer's personal information, and they should be committed not to sell or share account or personal information to outside companies that are not affiliated with the pension entity for the purpose of telemarketing or direct mail marketing. c. The law ought to allow a customer to stop or "opt out" of certain information sharing and the pension entities ought to inform the customers of their option. d. The law ought to prohibit the disclosure of information of customers by third parties.
Description	<p>The Act on Personal Data Protection has strict rules about data sharing, and security of member information is a key objective of REGOS. Thus it appears that the pressures that may be placed on a consumer when opening a bank account or acquiring automobile financing do not apply in the case of mandatory pensions. As a voluntary pension represents a discretionary purchase it is also unlikely that cross-selling pressures would apply at the sales interface.</p> <p>Data may be used for statistical or research purposes "provided appropriate protection measures are in place" (Article 6 of the Act on Personal Data Protection).</p>
Recommendation	No recommendation.
Good Practice D.3	<p><i>Permitted Disclosures</i></p> <ul style="list-style-type: none"> a. The law ought to state specific procedures and exceptions concerning the release of customers' financial records to government authorities. b. The law ought to provide for penalties for breach of secrecy laws.
Description	<p>The Act on Personal Data Protection precisely specifies the conditions under which data may be released to government and courts. This Act states that the consumer does not have to be informed if such processing of personal data has been explicitly determined by law.</p> <p>Penalties are specified in the Act on Personal Data Protection (Article 36) however these appear to be relatively modest.</p>
Recommendation	<p>The Mandatory and Voluntary Pension Funds Law should specify that no information relating to individual pension fund members can be released for any purpose unless required under the law.</p> <p>Penalties for breaches of the data protection rules could be increased.</p>
SECTION E	DISPUTE RESOLUTION MECHANISMS
Good Practice E.1	<p><i>Internal Dispute Settlement</i></p> <ul style="list-style-type: none"> a. An internal avenue for claim and dispute resolution practices

	<p>within the pension entity should be required by the supervisory agency.</p> <p>b. Pension entities should provide designated employees available to consumers for inquiries and complaints.</p> <p>c. The pension entity should inform its customers of the internal procedures on dispute resolution.</p> <p>d. The regulator or supervisor should provide oversight on whether pension entities comply with their internal procedures on consumer protection rules.</p>
Description	There is no reference to internal dispute mechanisms in the Mandatory and Voluntary Pension Funds Law or sub laws.
Recommendation	The Mandatory and Voluntary Pension Funds Law should specify an internal dispute resolution process for pension companies dealing with disgruntled members.
Good Practice E.3	<p><i>Formal Dispute Mechanisms</i></p> <p>A system should be in place that allows consumers to seek third-party recourse in the event they cannot resolve an issue with the pension entity.</p>
Description	<p>There is no formal external dispute resolution mechanism specified in the Mandatory and Voluntary Pension Funds Law. In practice, and in common with all other retail financial products, the only formal recourse aside from the civil courts is mediation through one of the Chambers.</p> <p>In practice HANFA is reported to be effective in resolving issues with pension companies.</p>
Recommendation	See recommendation under A.2.
SECTION F	GUARANTEE, COMPENSATION SCHEMES AND SAFETY PROVISIONS
Good Practice F.1	<p>Guarantee and compensation schemes are less common in the pensions sector than in banking and insurance. There are more likely to be broader fiduciary duties and custodian arrangements to ensure the safety of assets.</p> <p>a. There should be a basic requirement in the law that pension entities should seek to safeguard pension fund assets.</p> <p>b. There should be adequate depository or custodian arrangements in place to ensure that assets are safeguarded.</p>
Description	<p>There are no separate guarantee funds in place. Investment returns under the mandatory system are subject to a relatively mild guaranteed return which is initially underwritten by the reserves and capital of the pension company and ultimately by the State. There are strong capital requirements for pension companies relative to investment and operational risk (including incremental reserves as mandatory fund membership grows) and HANFA has extensive powers to force mergers and acquisitions of pension funds.</p> <p>Pension fund assets must be placed with unrelated custodians in alienated accounts that cannot be in any way charged or used except by the members. The custodians are required to maintain up-to-date records and conduct regular valuations of the underlying assets. Custodians must be approved in advance by HANFA (Chapter X of the Mandatory and Voluntary Pension Funds Law).</p> <p>Annuity insurers are required to maintain voluntary and mandatory reserves in</p>

	separate funds and can also be required by HANFA to establish "emergency funds". A portion of any excess surplus has to be allocated to emergency funds under the Law on Pension Insurance Companies.
Recommendation	No recommendation.
SECTION G	CONSUMER EDUCATION AND FINANCIAL LITERACY
Good Practice G.1	<p><i>Use of Mass-media</i></p> <ul style="list-style-type: none"> a. Press should be encouraged to actively cover issues related to retail financial products. b. Regulators and/or industry association should provide sufficient information to the press to facilitate analysis of related issues.
Description	The financial press in Croatia tends to be unsophisticated and seeking sensationalism. With a few exceptions, such as the Tectus productions, it is not yet at the stage where responsible financial journalism can be expected of it.
Recommendation	HANFA should begin an education program for selected journalists while at the same time communicate directly with the general public through the visual mass-media. It already has some plans underway in this regard (see insurance assessment).
Good Practice G.2	<p><i>Formal Consumer Dissemination and Assistance</i></p> <ul style="list-style-type: none"> a. The government and regulators ought to put in place formal consumer information dissemination and assistance to improve consumer awareness and knowledge. b. Public education on consumer awareness in the area of pensions by non-governmental organization ought to be encouraged. c. The government should develop a strategy for including financial education as part of the general education curriculum.
Description	See insurance section.
Recommendation	See insurance section.

Annex I: List of Recommendations

Legal and Institutional Framework

1. The Code of Banking Practices should be reviewed, revised and made into a Consumer Protection Code based on broad principles.
2. The professional associations for securities, investment funds and pension funds should be strengthened.
3. The financial supervisory authorities should commence work with their respective financial industries to develop specific codes of business practices that reflect general principles.
4. The financial supervisory agencies should be given the powers necessary to enforce Codes of Conduct in the respective financial sectors.
5. The financial industry associations should work on common terminology to enable customers to compare products and prices.

Information and Disclosure for Consumers

6. Financial entities should be required to provide a cooling-off period for products that require a commitment of more than 2-3 years, such as mortgages, personal loans or life insurance contracts, and to inform consumers of their rights.
7. Financial supervisory agencies should monitor market competition and ensure that no institution can leverage market power through bundling or tying or other exclusionary practices.
8. Financial institutions should disclose in all advertising the fact that they are regulated and by whom.
9. Financial institutions should be required to provide a “Statement of Key Facts”. The standard formats for “Statement of Key Facts” should be developed by professional associations.
10. Co-debtors should be equally informed as the main borrower about the loan amounts, possible charges and information-sharing practices, and be equally required to provide written consent for sharing information. Further education on risks of acting as co-debtor should be strengthened.
11. Banks should provide customers with information of the complaints procedure with regards to balance or inaccuracies in accounts or transactions.
12. Financial institutions need to ensure that staff are properly trained and have sufficient time to deal with customer queries.
13. Banks should be required to notify in advance of any change in non-interest charges.
14. The banking association should marshal the banks to improve the clarity of credit card statements.

15. Banks should be required to comply with good practices regarding debt collection, and in particular regarding sureties.
16. The penalties for sales practice violations should be increased and expanded to cover natural persons to deter violations. Civil liability provisions should be strengthened and expanded to include natural persons who are sales people. .
17. Claims that have already occurred for B2C insurance contracts should not be avoidable (or pro-rated) on the grounds of non-disclosure or non-fraudulent misrepresentation not relevant to the cause of the claim.
18. Additional disclosure requirements should be established in the pensions sector, including the requirement that a prospectus (with a key-facts page) be provided to a prospective pension fund member before joining or switching to a fund, or that members of mandatory funds should be advised if a pension fund intermediary will receive commission or any other benefit as a result of the member switching funds.
19. The insurance and pension regulator should put into effect appropriate exam and testing procedures for persons who sell specific insurance and pension financial products (e.g. insurance intermediaries, natural sales persons and persons who provide advice to join or switch to a pension fund).
20. Securities regulation should be amended so that suitability rules are put in place for CIU costumers.
21. Securities legislation should include a specific time period for the closing of an account and, if requested by the client, transfer of the funds or positions to another investment firm or CIU.
22. The Civil Obligations Act should be updated to reflect modern thinking on business-to-consumer contractual relationships in the insurance market.
23. Semi-annual (if a transaction is made during the first half of the year) and annual statements should be sent to retail securities and investment fund customers and the regulations should provide for this.
24. The insurance regulator should specify the maximum assumptions on interest crediting and bonuses, based on current secure investment returns available, which can be employed by life insurers and their representatives for future benefit illustrations.
25. The insurance association should periodically provide basic financial information on each insurer, so that an informed observer is able to form a broad view of an insurer's financial strength.

Privacy and Data Protection

26. Consumers should be informed of the implications of third-party data sharing for any other purpose than marketing (where there is already a notification requirement). A written consent should be obtained for these matters. This should be included in the credit contracts or attached as an extra form.

27. Protection measures required when data are used for scientific or research purposes should be specified.
28. The pension funds legislation should specify that no information relating to individual pension fund members can be released for any purpose unless required under the law.
29. There should be clear rules on the retention period of credit records for credit bureaus and customers should be informed about the retention period before the contract is concluded.
30. Access of non-bank credit institutions to the credit bureau should be considered.
31. There should be increased consumer education about the credit reporting system, as well as its impact on conditions and access to finance by consumers.

Dispute Resolution

32. Financial institutions in the banking, insurance, pensions and non-banking credit sectors should be required to adopt written procedures for handling customer complaints, provide the complainant with a contact person to interact on complaints lodged, and keep the customer updated on the progress of the complaint handling process (including completion of investigation).
33. Each financial institution in the banking, insurance, pensions and non-banking credit sectors should be required to maintain up-to-date records of all complaints. These records should be periodically reviewed by the financial supervisory agency.
34. Consideration should be given to setting up a Financial Consumer Complaints Center, as a single location where consumers can easily submit inquiries and complaints, and as an entity responsible of ensuring that complaints are properly addressed by the financial institution and the government authorities.
35. The authorities should evaluate different options to implement an effective and affordable dispute settlement mechanism for the financial sector.

Insolvency

36. The law should be amended to provide for the appointment of a receiver by HANFA if it determines that a financial institution such as an investment firm or CIU is in financial distress. In addition, a mechanism for rapid payout of funds to investors and CIU unit holders should be included in the amendment.

Financial Education

37. There should be better collaboration between financial supervisory agencies, professional association and consumer associations in the area of consumer information and awareness.
38. The financial supervisory agencies and professional associations should work with media personnel to improve their awareness and competency level regarding financial issues.

39. HANFA should take the opportunity of its website redesign to include “consumer alerts” that provide consumers with up-to-date information on scams or schemes from unauthorized financial institutions, and other relevant consumer protection issues.
40. Consumer organizations should collect data on tariff rates and publish them in a way that consumers can make informed decisions on interest rates and charges.
41. A nationwide survey of the levels of financial literacy in Croatia should be conducted as a baseline analysis of the current level of financial literacy in the Croatian population, with a follow-up survey 3-5 years later.

Annex II: Financial Literacy Surveys – International Experiences

United Kingdom

In 1992, the National Foundation for Education Research conducted one of the first research projects on levels of financial literacy¹⁷ in the UK. This research showed that the increase in the household debt was accompanied by a low level of understanding financial issues, particularly from lower income groups.

In 2003, the Financial Supervisory Authority (FSA) launched its National Strategy for Financial Capability to develop and implement a strategy to improve consumers' ability to make financial decisions with confidence. Under the context of this strategy, in 2004, the FSA commissioned the Personal Finance Research Centre (PFRC), led by Professor Elaine Kempson, at Bristol University, to elaborate a comprehensive baseline survey to establish the state of financial capability in the UK.

This project had 3 specific objectives: i) identify the components of financial capability and explore whether the components vary in different circumstances; ii) design a questionnaire that can capture the components of financial capability in a large-scale quantitative survey; iii) design a scale against which individuals' financial capability can be measured, taking into account their circumstances and "need to know".

The study was carried out in 5 different stages:

i) Literature and research review, to develop a model of financial capability and review questions used in other surveys. After reviewing and evaluating the methods used in 37 surveys from 8 countries, a model was developed, identifying 3 main elements that determine financial capability: knowledge and understanding, skills, and confidence and attitudes; these models are influenced by an individual's experience and circumstances, and personality. The result of these interacting forces is the person's behavior, which reflects his capability.

ii) Organize focus groups to explore people's definitions of financial capability and identify ways to capture it on a survey. 8 focus groups were held, with a participation of 68 individuals in total. These focus groups were drawn from 3 different regions (low, middle and high income areas) and with people in different age groups, above 18. Each focus group lasted between 60 and 105 minutes. Overall, people considered that financial capability had four basic dimensions: managing money, planning ahead, making choices (or choosing financial products) and getting help (or staying informed about financial matters).

iii) A wave of in-depth interviews with 33 individuals who had participated in the focus groups, to refine the content of the questionnaire.

iv) A second wave of semi-structured interviews to provide a cognitive test of the structured questionnaire

¹⁷ The National Foundation for Education Research in defined financial literacy as the ability to make informed judgments; the ability to take effective action regarding the current and future use of money; and the ability to manage money. This concept has also been used in Australia by the regulatory agencies, and in US by the Financial Literacy and Education Commission.

v) Two further series of interviews to test the questionnaire, each one of them involving 100 individuals.

This initial work was completed in the first half of 2005 with the production of a thoroughly tested questionnaire. Between June and September 2005, the full national survey to measure levels of financial capability in the UK was conducted among 5,328 people. This sample included 4,905 individuals from each of the countries in the UK, and 423 from ethnic minorities. The interviews lasted 44 minutes on average, ranging from 15 to 100 minutes.

The main findings of this baseline survey were published in the report *Establishing a Baseline* (FSA, March 2006). This report showed that large numbers of people, from all sections of society, are not taking basic steps to plan ahead, such as saving for retirement; over-indebtedness not only affects a large proportion of the population, but its consequences are severe, especially during an economic downturn; many people are taking on financial risks without realizing them, because they do not adequately choose products that truly meet their needs; people under 40 years old are typically much less financially capable than their elders.

The survey is expected to be repeated every 4-5 years, in order to monitor changes in financial capability and to assess the effectiveness of initiatives launched to improve financial capability.

France

In June 2004, the Authority of Financial Markets (Autorite des Marches Financiers – AMF) established a Working Group for the education and continuous instruction of customers, with the goal of setting an action plan regarding customers' financial education, starting in 2005. The first two steps in this action plan were developed simultaneously and consisted of a baseline survey on the level of financial education in France (demand side), and an inventory of the offer of the existing financial education and information programs.

The working group commissioned the survey to TNS Sofres, a French market research company. The survey was conducted by telephone, from October 4 to 8, to a sample of 1,004 individuals above 18 years old. The sample was differentiated by gender, age, profession of the head of household, region). This survey found that the French seemed to be unfamiliar with financial matters: 25% of the respondents said they "know about finance" and only 2% said they know "a lot"; the majority said that their financial knowledge was insufficient for them to read specialized financial press (74%) or to choose adequate financial products (58%) or evaluate the profitability and risk of their investments (57%); 69% said the universe of financial investment is complex; and 54% rely on their banker as main source of information and practically delegate their decision-making authority to their bank.

These results were published in May 2005 as the AMF Report "Toward the Economic and Financial Education of Small Investors". On the basis of this report, AMF called for the creation of the Investor Education Institute, which started its activities in April 2006.

Hungary

In 2001, the Central Bank of Hungary, Magyar Nemzeti Bank (MNB) carried out a study on household savings and the propensity of the population to borrow money. The results of this study led the MNB to design a strategy to enhance financial capability, especially among young people. In the Report on Financial Stability from October 2005, the MNB emphasized the

importance of an “efficient, well-coordinated programme aiming at the development of financial culture”. In 2006, the MNB launched a financial education project oriented to develop financial skills in secondary schools’ students. In order to identify the level of financial literacy among young people, the MNB commissioned a nationwide survey, carried out in September 2006 by the Gallup Organization Hungary. The survey was conducted to 2,000 people between 14 and 30 years old, through face-to-face interviews in their homes. The data included information on sex, education and size of locality. The sample was divided into two subgroups according to their age: 1,000 people aged 14-17 (younger group), and 1,000 people aged 18-30 (older group).

Key findings of the survey

- The majority of young people are not interested in financial issues, although they consider them an important aspect in life.
- Many respondents find it hard to access easy-to-digest information on financial services and products. Therefore, they do not actively seek information before making financial decisions and choosing financial products.
- 10% of the younger group and 67% of the older group have current accounts; however, their use of more sophisticated current account services is relatively low.
- Only 6% of the younger group use Internet banking services, despite their wide use of Internet for other purposes. The main reasons are the lack of basic financial knowledge and the fear of misinterpreting specific financial terminology.
- Although 12% of the younger group and 65% of the older group have a payment card, most of them do not use it for payment transactions.
- The knowledge about the pension system is very low. Many respondents are not aware of the importance of future planning, and they do not consider long-term saving as an option in a context of regulatory and economic changes.

Based on the results of the survey, the MNB elaborated an information booklet in February 2007, designed to meet the special information needs of 18-year-old high-school students. The Financial Services Authority, Ministry of Finance, Ministry of Education and Culture also contributed to the content of the booklet. The main topics of the booklet are: bank accounts, bank cards, savings, loans and retirement savings. After testing the booklets with selected secondary classes, they were distributed amongst 107,000 students in graduation year in 1,200 secondary schools in April 2007. The packages also included guidelines for teachers. All expenses related to production and distribution (€ 60,000) of the booklets were covered by the MNB.

The MNB plans to distribute the booklet yearly, until it launches mandatory financial education classes in secondary schools. In order to promote their strategy for financial education and the booklet, the MNB organized a conference for authorities and NGOs, and launched a communication campaign for the general public.

Australia

The first national survey of adult financial literacy in Australia was commissioned by the ANZ Banking Group to Roy Morgan Research in 2002. In 2005, ANZ Bank conducted an update of this survey. Although the Australian Government did not have a role in funding the surveys, and they are not considered government surveys, a representative of the Australian Securities and Investments Commission (ASIC) participated in the Steering Committee, created to oversee these surveys.

The first survey involved 3 stages:

1) Stakeholder survey to develop a domestic framework for measuring financial literacy. The Steering Committee for the first survey took as starting point the UK's methodology for its Financial Capability Survey. This methodology was adapted to the Australian conditions, based on in-depth interviews with 33 experts from areas relevant to financial literacy. The survey kept the UK basic categories (financial understanding, financial competence and financial responsibility) and added a new category (mathematical literacy and standard literacy).

2) Telephone survey. Following extensive development and testing of the questionnaire, a telephone survey was conducted to a national random sample of 3,548 adult Australians from August 23rd to September 15th 2002. The size of the sample allowed for confidence intervals of less than $\pm 2\%$ at the 95% confidence level. The sampling frame used for the survey was the latest available electronic white pages, and the sample was stratified by State and by metropolitan area within each State. The number of interviews conducted in each stratum was proportional to population.

The questionnaire included 145 finance and 25 demographic questions (education, location, employment, marital status, gender, language skills, type of residence, etc). In order to minimize the duration of the interview (which average was 24 minutes), a group of core questions were asked to all respondents, whilst other questions were either only asked to people for whom such questions were relevant, or randomly allocated to a 50% sub-sample of respondents. The questionnaire development process included initial pre-testing, qualitative in-depth testing with 30 respondents, and pilot testing with 30 respondents.

3) In-depth interview survey. It consisted of a central location survey to 202 respondents in Sydney and Melbourne, which included a self-completion component and in-depth interview of 1–1.5 hours each. The interviews were conducted between January 29th and February 2nd, 2003. The self-completion questionnaire comprised 28 questions that had clear answers and 20 demographic questions. The interview included 43 questions that required longer answers.

The main results of the survey were positive, showing that 97% of consumers have a banking account, 80% felt "well informed" when making financial decisions, 90% felt they knew how to use the more common payment methods, 98% understood that prioritizing needs is required to balance income and expenditure, 97% knew that their employers were required to make superannuation contributions on their behalf, 91% understood the responsibility of providing honest and complete disclosure of personal needs, and 89% understood the importance of PIN security.

In terms of the problematic areas, the lowest levels of financial literacy were associated with those having lower education (10 years or less), those not working or doing unskilled work, those with lower incomes (under \$20,000), those with lower saving levels (under \$5,000), single, those at both extremes of the age profile (18-24 and above 70 years old). Some of the key financial concepts where people had more problems were superannuation, investment fundamentals (risk and return), planning for retirement, understanding of financial records, knowledge of fees and charges, use of newer payment methods, knowledge of and trust on dispute resolution mechanisms.

After the national financial literacy survey was published, the Australian Securities and Investments Commission commissioned Erebus Consulting Partners to undertake a research project that would identify where and how financial literacy was taught in Australian secondary schools. This research consisted of a curriculum map revealing opportunities for teaching financial literacy and a survey of available resources to support the teaching of financial literacy.

This research was completed in four months, in 2003. ASIC provided Erebus with a list of key concepts regarding personal finance (forms of money such as cash and credit, sources of income, payment methods such as cash or cheques, investment notions such as risk-return or interest, among others), financial products and services (accounts, electronic banking, credit cards, mortgages, insurance, among others), consumer rights and responsibilities (get and understand information, financial management, shopping around, keeping records, make complaints)

The main findings were that, whilst there were opportunities for teaching financial literacy in specific courses, this topic was not a formal course of study in any jurisdiction and there was no systematic approach to its teaching. The research made proposals about the incorporation of financial literacy into the curriculum, and the development of resources to support these changes (including teachers' professional development, tools and awareness campaigns)

On the basis of these efforts, the Minister for Revenue and Assistant Treasurer appointed the Consumer and Financial Literacy Taskforce in 2004, in order to develop a national strategy for consumer financial literacy. By August 2004, the Taskforce had recommended the creation of a national financial literacy body to improve the financial skills that consumers require and to address the needs of low literacy groups in particular. In 2005, the Australian government created the Financial Literacy Foundation (FLF), launched in June 2005. The FLF is in charge of advancing consumer and financial education in schools and workplaces; commissioning and conducting national research that would set benchmarks on financial education; changing attitudes toward financial literacy; providing a clearing house website; and facilitating collaboration between industry, government, and community organizations.

In 2005, the AZN Bank Group commissioned another survey, conducted by ACNielsen Research, as an update on the baseline assessment. The same methodology was used as in 2002, conducting telephone interviews to 3,513 people. In this opportunity, more people felt "well informed" when making financial decisions (84%), more people used electronic payment methods, including internet banking and direct debit. In terms of most vulnerable population, the lowest levels of financial literacy remained in the same groups as in the baseline survey.

The FLF has also commissioned a national financial literacy survey that will look at what motivates, or acts as a barrier, for people to improve their skills and understanding about managing money. Compared with the ANZ survey, the FLF survey has wider scope (7,500 people) and age-range (from 12 to 75 years). The results are expected to be published in the first semester of 2008.

India

The Invest India Incomes and Savings Survey 2007 is the first nationwide market research on financial literacy, preferences and practices of India's mass market for retail finance products. It was conducted by IIMS Dataworks, and covered in-depth interviews with 100,000 respondents aged 18 to 59 years, with cash incomes. Supported by a household listing sample of one million, this Survey is the largest ever of its kind in the world. The survey provides information on all major financial markets, including retail banking, credit, life insurance, mutual funds, equity and residential housing markets; there is also information on individual gold investors and community-based savings and credit schemes. The survey also provides data on the income and demography of the working-age population surveyed, and a disaggregated view of the occupational composition of retail finance consumers.

The survey was completed in June 2007, and some information has been published in the IIMS Dataworks website, in the form of access to the full unit record database by subscription, a flagship report describing the retail financial markets, and customized proprietary analysis of the data for interested subscribers, according to their specifications.

USA

FINRA carried out the first US national survey that evaluated the level of financial literacy in 2003. This survey asked 1,086 investors more than 50 basic and intermediate questions about investing in stocks, bonds and mutual funds. The results can be found online at: www.finrafoundation.org/surveyexecsum.pdf.

In addition, there have been a large number of surveys conducted on specific populations, such as school-aged children, and in specific regions. For example, the JumpStart Coalition for Personal Financial Literacy¹⁸ has undertaken three consecutive nationwide financial literacy surveys of Grade 12 students in 1997, 2000, 2002, 2004 and 2006. The last survey was posed to 5,775 high school students in 37 states in the US and the questions were administered by individual teachers in classes other than finance and management, mostly English and Social Studies. The average scores have revealed low levels of financial literacy among US students, with decreasing scores from 57.3% to 50.2%.

¹⁸ JumpStart is a non-profit organization established in 1997 in the US, with the mission of improving personal financial literacy of young adults and promoting the teaching of personal finance; it also encourages curriculum development to ensure that students attain basic personal financial management skills. JumpStart's Board has representatives from 30 educational and financial system organizations. JumpStart operates a clearinghouse of personal finance resources and teaching materials produced by various organizations, available online. It also developed a set of standards in personal finance education, covering the areas of income, money management, spending-credit and saving-investing.