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SLOVAKIA

Technical Note on Consumer Protection in Financial Services

Volume II
Sectoral Analyses
And Good Practice Reviews

July 2007

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

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Banking

Consumer protection in banking typically starts with enacting a set of prudential regulations and installing a deposit protection framework. The prudential and deposit protection regulations, however, are first of all geared to protect bank depositors and lenders. Bank lending side customers need a different set of market conduct rules regulating banks' relationship with the borrowing clients. For instance, in the US, which has the biggest and deepest mortgage market in the world, the purchase of a home is recognized as the most important and expensive financial decision for most of the US population, with laws that require full disclosure of the terms of those loans. (See Table 1.)

Table 1: Banking Services for Households

Total Assets of Banking Service Providers (mil. SKK)	2002	2003	2004	2005	2006 (Nov)
Credit cards	410 496	575 407	914 104	1 118 130	n.a.
Residential mortgages	728 183	729 576	869 624	948 931	1 128 575
Residential bank deposits	998 640	984 625	1 162 935	1 389 728	1 422 211
Household loans	998 640	970 238	1 140 953	1 383 267	1 422 277

Source: National Bank of Slovakia
Note: Residential mortgages cover only banks and branch of foreign bank with mortgage licences.

With Slovakia's accession to the European Union in May 2004, almost over 110 banks have begun operations as EU cross-border providers of banking services under the "single passport" rules on licensing of banking operations.[1] All major banks (other than branches) operating in Slovakia are subsidiaries of large international banking groups. These banks originate primarily from Austria (24 banks), United Kingdom (23), Germany (18) and France (10.) Banking sector assets, accounts for more than 80 percent of the total financial system. Out of 17 banks registered in Slovakia in 2006, only two very small institutions were locally owned.

The supervisory and regulatory framework for Slovakia has been substantially strengthened since 2002. Significant improvement in supervisory capacity is evident not only in the banking sector, but generally across the entire financial sector. The unification of supervision under the NBS that started in 2006 is gaining consolidation. Though EU requirement for harmonization is fuelling these positive reforms, the government's commitment to create a well-functioning and well-supervised financial system is resoundingly clear. The growth in the financial sector has improved the access to finance by SMEs and households. Competitive pressures also have led banks to reduce spreads, cut fee levels, lower the threshold for the minimum level of co-financing, and increase the maximum size and maturity of loans. The

[1] The European Commission's policies on regulation of banks and financial conglomerates are based on the principles of mutual recognition and the "single passport." Under the single passport rule, financial institutions authorized in one EU member state may establish branches or provide services in other member states without requirements for additional authorization from the host supervisory agency. See http://ec.europa.eu/internal_market/bank/index_en.htm

number of bank branches is now reaching European per capita levels, while the use of electronic banking is on the rise.

The current legal and regulatory framework of Slovakia provides an effective framework for the implementation of Basle Core Principles and generally sound corporate governance principles. While the Commercial Code provides the legal framework for all joint stock companies including banks, the Act on Banks governs banks, branches of foreign banks and cross border banking services providers who enter the Slovak Marker under the EU single passport rules. The 2003 amendments to the Act on Banks further empower NBS to carry out consolidated supervision. In addition to the general laws of the country, banks are also subject to the following specific laws – National Bank of Slovakia Act (Act No. 566/1992 Coll.), Act on Financial Market Supervision (Act No. 744/2004 Coll.), Deposit Protection Act (Act No. 118/1996 Coll.) and Act on the Payment System (Act No. 510/2002 Coll.) .

Consumer Protection Laws and Institutions

Legal Framework

The general law governing consumer protection in Slovakia is the Act No. 634/1992 Coll. On Consumer Protection. This law vests the necessary powers in the Slovak Trade Inspection Office (STI) of the Ministry of Economy to ensure consumer protection in all matters including goods and services. Act No. 266/2005 Coll. provides for protection in connection with the Distance Financial Services. The EU Directive on protection of consumers in respect of distance contracts negotiated away from business premises (85/577/EEC) and the Directive on the protection of consumers in respect of distance contracts (97/7/EC) were transposed into Act No. 108/2000 coll. on Consumer protection in doorstep selling and distance selling. The Consumer Credit Law No. 258/2001 Coll., (CCL) is the most critical and direct law that protects consumers in credit agreements including consumer credit provided by banks.

The Consumer Credit Law provides for the way in which consumer credit may be given. Section 3 provides the information the agreement must contain and also some of the basic rights of the customer such as the form of contract, the descriptions of services, the particulars of the borrower. Sections 3, 4 (1) to (3), and (5) of the Consumer Credit Law empowers the STI to impose upon the creditor a fine of up to SKK 500,000. If the creditor fails to pay the fine, the STI commences sanction proceedings. Though there has no sanction proceeding under the Consumer Credit Law, the STI secured eight sanctions in 2006. The Payments System Law too plays an important role in the ensuring consumer protection in payment transactions. NBS implements this law and the enforcement seem to have been effective.

The STI's ability to effectively enforce consumer protection under the various laws is not without serious challenges. The STI carries out inspection to enforce consumer protection in the country, either on its own accord and also based on public complaints. It received 6,000 complaints in 2006 and carried out 38 inspections only. The lack of staff, skills and resources at the STI is a common knowledge. It is interesting that STI only received 20 complaints related to consumer credit last year and none was pursued. The low number of complaints can either reflect a relatively high consumer protection compliance in the financial sector or public perception relating to lack of confidence in the STI to be effective in dealing with consumer credit complaints. Another reason could be the fact that consumers do not know where to complain. STI admitted that the rules on privacy and banking secrecy in the Act of Banks make any inspection of banks, cumbersome and less likely.

It is must also be highlighted that section 2 of the Consumer Credit Law excludes the application of the CCL to credit agreements with value less than EURO 200 and not more than EURO 20,000. Under this section, credit agreements entered for the same purpose between the same creditor and consumer are aggregated and constitute a single consumer credit, if the repayment period of the credit does not exceed three months and if the number of instalments do not exceed four instalments in a year. The law makes several assumptions in the foregoing exceptions: (1) short duration agreements are not abused; (2) persons entering into contracts larger than EURO 20,000 must necessarily be sophisticated; and (3) if there is only four instalments, consumer protection is upheld. While it is prudent to have cut off limits for the rendering of public services such as inspections and dispute resolution mechanism, the legal protection ought to be extended to all consumers.

Another important factor in the gap in consumer protection is that STI only looks into complaints but is not empowered to collect data on inquires and disputes. It has data on complaints received from customers however; there is no analysis of the data that could be utilized for making important strategic decision on consumer protection. Thus there is no centralized or comprehensive collection of data or analysis on consumer issues in the financial services. It is critical that a central agency for consumer protection in financial services be set up for amongst other things, to answer consumer inquiry, complaints, investigation, and enforcement of sanctions for breach of consumer protection laws. The agency ought to also oversee the sector ombudsman to ensure that they are fair and independent.

The Consumer Credit Law needs to be amended to include all types of consumer credit contracts. The STI or a centralized agency must start receiving inquiries, complaints and provide avenue for dispute settlement. The agency must also collect relevant data to have sufficient statistics on: (1) the type and frequency of complaints, inquiries and disputes, (2) the segment of consumer and creditors who are subject to the complaints, inquiries and disputes, and (3) the time taken to resolve issues and success rates. Collection of the data permits the agency to formulate concrete consumer protection strategy, targeted consumer education, targeted enforcement and also effective changes to the legal framework.

Though the Civil Code provides broad consumer protection to consumers and is to be considered as the ultimate bastion for the enforcement of the consumer protection laws, it is hardly relied on by aggrieved consumers. The Civil Code Law amending the Civil Code, Notarial Law, and other Laws (adopted on 19 August 2002; entered into force on 1 January 2003). This amendment mainly deals with the type of charges subject to the Civil Code, rights and obligation of the chargee and chargor in a Charge, the need for registration of charges.[2] Customers can obtain general relieve under the Civil Code for non-compliance with its requirement that impinges on consumer rights enunciated by the Code. This would require taking the creditor to court for damages suffered. Since, the court system in Slovakia is sluggish and cases like this may take more than 3 years on the average. This practically shuts the consumer protection avenue in the Civil Code. There must be an alternative dispute settlement mechanism

[2] Article 151b states that,
(1) A charge is created by a written agreement, an approved hereditary agreement of heirs, by decision of a court or administrative body or by operation of law. A written agreement is not required where the charge agreement concerns a movable thing, provided that the charge is created by physical delivery of the thing pursuant to this Law. (Pledge does not require written agreement).
(2) The charge agreement shall specify the secured claim and the collateral.
(3) If the value of the secured claim is not specified in the charge agreement, the agreement shall specify the maximum principal amount up to which the claim shall be secured.
(4) The collateral may be determined in the charge agreement individually, in terms of volume and type, or in another manner so that it is possible at any given time to identify the collateral.

sponsored by either the government or industry to reduce the number of customers who have to rely on the regular court system for relieve. A more detailed discussion is given below.

Institutions

There is nothing in the law that prevents private sector, including voluntary consumer protection organizations and self-regulatory organizations from pursuing consumer protection. There are currently about 30 consumer protection organizations. Pursuant to Act No. 634/1992 Coll. on Consumer Protection, the Ministry of Economy contributes, on yearly basis, to the activity of non-governmental consumer organisations based on the submitted projects. The subsidies range from SKK 100,000 to SKK 800,000 for the individual organisations. For the year 2007, six consumer associations were granted a total amount of SKK 2.5 million. As indicated by one of the organization, the amount of grant hardly meets basic requirement of the organizations and restricts their ability to carry out any meaningful consumer protection activates.

While currently there is no Code of Conduct for bankers which can assist in the engendering of consumer protection, the banks through the Association of Banks do endeavor to use commonality in terminology on charges, services and products. In 2006, a Fee book was published by the Association. The fact that banking is one the oldest form of financial services has helped in the commonality in terminology. The Association is continuing to work on this. The Association of Bankers will be passing a new Code of Conduct for Bankers in June/July 2007. The Code is to be binding on the Banks. The effectiveness of code will depend on the contents, extent of publicity provided and the form and procedures for sanction on non-compliance by banks. The Code of Conduct must also be effectively disseminated to the public, not only by individual banks but through the Association and other consumer interest organizations.

An important force in consumer protection in any country is the media and in Slovakia, the media does contribute to improving the consumer protection indirectly. However, the contribution comes usually after the fact such as in the BMG case. Banks engage the media more for promotion of its new products and very little space is devoted for pure consumer benefit. Some magazines play a more significant role than others on the financial sector matters. In particular, the magazine *Trend* champions consumer protection issues. There is a clear need for closer coordination between the Ministry, regulators and consumer associations to champion consumer protection. The media can be strategically engaged to provide consumer education by the government, regulators and industry.

Disclosure and Sales Practices

The disclosure and sales practices in Slovakia are generally good and commendable. The Act on Banks Law governs these areas rather strictly paving the path for greater consumer protection in the banking sector. The current disclosure principles cover the consumer's relationship with the bank in all three stages of such relationships: pre-sale, point of sale, and post sale. The nature, clarity and information available and provided to the consumer do to a great extent inform the consumer of choice of accounts products and services. There are also clear rules on solicitation and issuance of banking services including electronic fund transfers and other payment instruments.[3] In addition to the Consumer Credit Act, the Act on Banks governs the activities of the banks in retail lending.

[3] Article 37 of the Bank Act

Banks ensure that their advertising and sales materials and procedures do not mislead the customers and are legally responsible for all statements made in marketing and sales materials related to their products. Nonetheless, not all marketing and sales materials are easily readable and understandable by the average public. Thus, some banks are providing summary of the terms and conditions for ease of consumer understanding. It is interesting to note that the law requires banks to inform customers about any change in the terms and conditions at least 15 days before such change. Also, Section 37(4) of the Act on Banks requires a bank to make public at its business premises information in writing about deposit protection and specify whether the deposit is covered. There is also cooling off period for contracts entered by the customers. The banks inform customers and provide 14 days cooling off period for contracts such as mortgages and loans.

Article 37(3) of Act on Banks requires banks and branch office of a foreign bank to provide the Ministry and the NBS, information on client fees in selected types of transactions. The NBS is required to publish this information on its Internet site. Article 37(2)[4] of Bank Act, requires a bank to inform the client of the annual percentage rate (APR) before concluding a contract and all fees charged to the client or paid by the bank in connection with the agreement. However, there are several products where prices are clearly not very transparent; for example, current accounts. The effective price charged by banks for providing current accounts may be reflected in the interest rates and fees applied to the account, and also in the level of charges for payment services. Thus it may be hard for consumers and SMEs to assess the effective price of a particular current account, and harder still to compare products across several suppliers with differentiated products.

Through Article 6 of the Act on Banks prohibits the National Bank from interfering with the relationship between a bank and its customer, under Article 37 (12).[5] The NBS is required to issue regulation on consumer protection issues. This includes: the extent and method of disclosure of information provided to clients under section 37 (2); the type of transactions and the scope, method and time period for the provision of information; the scope and method of publishing information the method of publishing a correction; and what is deemed a substantial misstatement. Article 67- 73 of the Act on Banks strictly governs the terms and conditions on the granting of mortgage loan and issue of mortgage bonds. The Payments Laws enforced by the NBS provides details provisions on the disclosures to be made in a payment transaction. The Association of Banks has a Voluntary Code of Conduct on pre-contractual information for home loans. It was drawn up by the European Union in March 2001 to guarantee that consumers receive transparent and comparable information on housing loans in order to encourage cross-boarder competition. It also covers information on home loan on offer.

One of the major complaints of the customers on banking services is on tied services. It is not uncommon for banks to sell tied products which restrict the mobility of banking and choice of customers.[6] The Sector Inquiry of EU, report suggests that in most Member States the majority of

[4] Section 37(2) of the Act on Banks reads, When concluding any written transaction contract, a bank or branch of a foreign bank shall inform the customer of the annual percentage interest rate of the transaction, if an interest rate is agreed, and of the payments which the bank requires of the customer, or which are to be made in favor of the customer, insofar as they relate to the transaction contract; this obligation shall not apply to payments relating to the failure to meet liabilities arising under the transaction contract.

[5] Section 37(12) of the Act on Banks reads, A bank or branch of a foreign bank shall explain its credit assessment decision at the request of the respective small or medium-sized legal person or other loan applicant carrying on business, and at the request thereof it may also provide an explanation in writing; the operating costs related to the explanation shall be appropriate to the size of the loan.

[6] Report on the retail banking sector inquiry - Sector Inquiry under Art 17 of Regulation 1/2003 on retail banking (Final Report) [COM(2007) 33 final] SEC(2007) 106.

banks tie a current account to mortgages, personal loans and SME loans. From a competition view point, product tying in retail banking may weaken competition in three ways. Firstly, tying raises switching costs and therefore is likely to reduce customer mobility. Secondly, by binding customers into buying several products from the same bank, tying is likely to discourage the entry of new players and growth of smaller players. Thirdly, by introducing additional perhaps unnecessary products into the transaction, tying reduces price transparency and comparability among providers. Though the foregoing poses a problem from a competition point of view, it does have an impact on customer protection. Slovakia needs to emulate measures to reduce tied services. Table 2 below illustrates the degree of tied products and UK, Germany and Ireland lead the good practice in this area. Lithuania, Portugal and Slovakia can be considered to have the highest rate of tied products.

Table 2: Sampled banks reporting product tying, weighted by banks combined percentage share of customer numbers in the lead product market

	Mortgage + current account	Consumer loan + current account	SME loan+ current account	Mortgage + life insurance
Austria	0%	0%	29%	0%
Belgium	44%	0%	73%	0%
Cyprus	35%	30%	100%	6%
Czech Republic	32%	41%	100%	0%
Denmark	93%	62%	53%	0%
Finland	75%	85%	13%	0%
France	86%	71%	91%	0%
Germany	5%	0%	11%	0%
Greece	69%	89%	81%	39%
Hungary	100%	80%	100%	0%
Ireland	0%	0%	0%	0%
Italy	48%	58%	73%	2%
Lithuania	100%	100%	100%	0%
Malta	48%	39%	67%	0%
Netherlands	0%	55%	58%	38%
Poland	29%	26%	85%	25%
Portugal	100%	100%	100%	54%
Slovakia	100%	100%	100%	2%
Slovenia	24%	38%	100%	11%
Spain	67%	65%	91%	0%
Sweden	1%	17%	13%	0%
UK	1%	1%	0%	0%
EU25	39%	35%	63%	6%

Notes: Data for countries with less than three valid observations are not separately reported but are included in the EU aggregate. Source: Commission services retail banking sector inquiry, 2005-2006

Another major issue of concern is the sale of non-banking products by banks. Two problems arise out of this. First the staff cross-selling these products is not necessarily qualified and may not be able to provide customers the required information, warnings and risks of the products they are selling. The other is that customers can mistake non-bank products and banking products and as a result labor under a false sense of security especially on deposit protection. It is important that banks are required to ensure meaningful space segregation between bank and non-bank product selling area. Banks must also ensure that their employees have adequate knowledge and qualification to sell non-bank products.

All major banks meet further disclosure requirement under international good practice by being rated by reputable international agencies. According to Article 39(3) of the National Bank of Slovakia Act, the NBS must publish an Annual Report containing basic data on monetary

http://ec.europa.eu/comm/competition/antitrust/others/sector_inquiries/financial_services/sec_2007_106.pdf

developments in the Slovak Republic. Article 42 of the Act on Banks requires that banks to publish: their annual report; semi-annual information about financial indicators and the structure of consolidated group; and quarterly information about its activities, including information about any corrective actions imposed, its financial indicators and major shareholders. Decree 5/2004 requires quarterly disclosure of licensed activities, the list of shareholders and consolidated group information. The foregoing information, including the annual report must be made available on all business premises of the bank and on its website.

Also, Slovak banks are required to prepare and publish annual reports, including detailed notes on financial statements, as per the Commercial Code, Act on Accounting, Act on Banks and Auditing Act. Ministry of Finance Provision 5292-2005-74 requires that bank financial statements include a description of credit, market and other risks, and means applied to address the risks. Decree 5/2004, updated in January 2006, stipulates the method of publication of the banks annual reports, including through each bank's website. Slovakia has an active independent press reviewing and commenting on banks' performance and development. In addition, major international rating agencies provide ratings on major banks or their foreign parents. Nevertheless, in order to improve market discipline all banks should be required to disclose their debt ratings to the public since customers may not be sophisticated enough to understand financial statements.

Customer Account Handling and Maintenance

The practices of the banking sector in the areas of customer accounts and handling are in line with the international good practice in this area. This could be due to the strict adherence to the legal requirements and the need to comply with the home country and EU requirements. As indicated earlier, banks make it a point to indicate the process, procedures and manner in which disputes relating to transaction are to be made. Information is also provided in the statement on the manner in which to dispute transactions. About 35 percent of the customers conduct electronic banking and the rules on these are clear including the form of notification. Though inactivity in an account is notified, it is unclear whether banks provide final notice of funds that will be transferred to the State due to inactivity beyond 7-10 years. Monthly statement indicates the total amount paid and the outstanding amount. However it is not clear whether bank indicate the amount allocated to the payment to the principal and to interest. Banks must indicate in the statement the amount paid towards principle and interest.

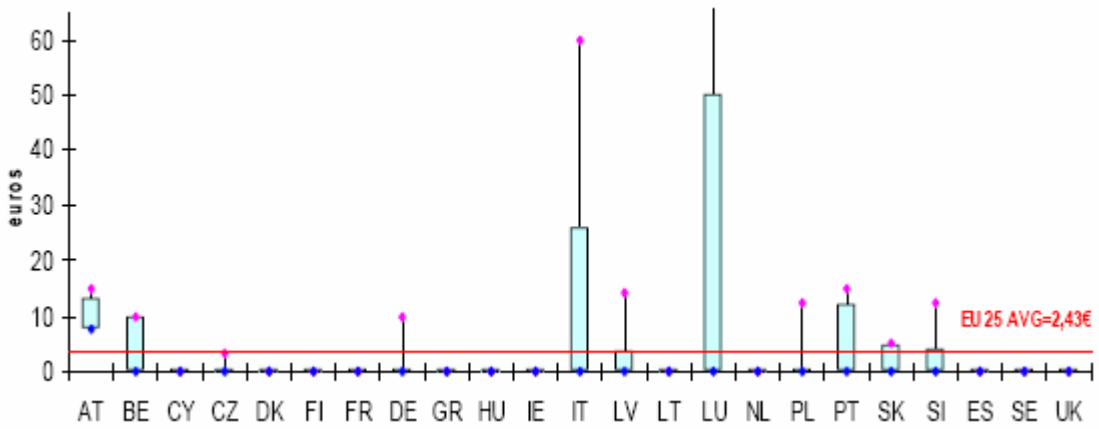
Debit cards contribute to 95 percent of the value of transactions and the rules governing cards is well established and with sound consumer protection. The rules pertaining to issue of debit cards and settlement is governed by the Card Association of Slovakia. This association ensures that the practices are in line with international practices. Customers are provided statements which indicate the minimum payment and costs related to the outstanding amount. Only 25 percent of the cards issued to customers constitute credit cards and it only accounts for 5 percent of the total value of transaction. Credit cards are issued by banks and they comply with the international agreement on credit card issued by Visa and Master Card. Fees charged for card operation in Slovakia is considered reasonable, including account management fees, closing fees, excess borrowing fees, fees for ATM withdrawals and fees for credit transfers.

There was a general complaint about the closing/exit charges by banks. Customers feel that closing charges restricted their option to bank. The evidence gathered by the sector EU Inquiry[7] suggests that high levels of switching costs in the retail banking industry may weaken competition in two ways. Firstly, switching costs may increase banks' market power, enabling

[7] Ibid, EU Report on the retail banking sector inquiry.

them to set higher prices for established customers who appear locked in to a banking relationship. Secondly, high switching costs and low customer mobility may limit prospects for market entry in full service retail banking, notably through greenfield operations. The suggestion from the Inquiry report is for regulators to take proportionate steps to reduce switching costs which will enhance competition in retail banking. The closing charges for Slovakia compared with other EU countries are listed in the figure below. Note that Slovakia is one of the few countries with closing charges.

Figure 1: Closing Charges' Variability, EU 25 Customers



Note: Truncation at 65 Euros
Source: Commission services retail banking sector inquiry, 2005-2006

The procedures for stolen cards and apportionment of liability are clear to the customers. There is a requirement for reporting within 24 hours and a hotline is provided to customers. Banks do not absolve customers of unauthorized transactions. They carry out an investigation and inform the customer of the outcome within an agreed period. Customers do not generally pay if there is fraud. Some banks issue insurance to protect unauthorized use. Banks in Slovakia need to move towards international good practice in this area so that a statement under oath on unauthorized transactions ought to absolve the customer of any liability for the unauthorized payment. To underpin the development of a single market for financial services and harness the full potential benefits of the Euro, the European banking industry is creating a Single Euro Payment Area (SEPA). SEPA is expected to further harmonize the rules on payment system and improve the level of service in this area.

There are no legal provisions, including in the Consumer Credit Law on debt collection and prevention of abusive practices. Banks indicate in their agreements the details on debt collection. Banks usually employ debt collectors and enter into agreement with these companies on the terms of collection. The banks indicated that they ensure that the debt collectors do not employ abusive methods through their agreement. There are no clear rules on prohibiting debt collectors from using false statement when collecting a debt, using unfair practices and giving false credit information to others. The Consumer Credit Law must be amended to provide for the above requirements. It is also important the banks ensure that the law is complied with and their debt collectors are contractually bound to comply with the law.

Privacy and Data Protection

Consumer protection in the Article 91 of the Act on Banks provides for extensive provisions on secrecy and privacy of information. Under this section, all information and documents on

matters concerning the clients of a bank or branch office of a foreign bank which are not publicly available, especially information on transactions, account and deposit balances, must be protected. A bank must also keep such information confidential and protect it against disclosure, misuse, damage, destruction, loss or theft. The exceptions are clearly stated. Under Article 37 of the Acts on Banks, information and documents on matters covered by bank secrecy may be disclosed by a bank to a third person only subject to prior written consent of the client concerned or upon his written instruction, unless stipulated otherwise by the Act. Banks consider privacy and banking secrecy very important and ensure compliance with the requirements of the law.

The Data Protection and Privacy Act also provides for data protection and privacy. This law implements the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. In particular, Section 5 provides that the personal data may be processed only by the controller or processor and that the processor shall be entitled to process personal data only in the extent and under conditions agreed upon with the controller in a written contract or written authorization. Under Section 50, the Office for Personal Data Protection may impose a disciplinary fine on the controller or processor for the contravention of the provisions of this law.

Credit Bureaus

Credit Bureaus enjoy an exception to banking secrecy through the written approval of the customer and is subject to Data Protection and Privacy Law. The Register of Bank Loans and Guarantees, which is operated by the NBS, was established in 1997 pursuant to the section 20a of the Act No. 21/1992 Coll. The act No. 21/1992 Coll. was cancelled by the Act on Banks (Act No. 483/2001 Coll.). The particulars of keeping and using this register are stipulated by the Decree of the National Bank of Slovakia No. 2/2003. It is collects both positive and negative data, and early registration has been introduced. The credit registry has 216 registered users (in banks and NBS) and over 273,000 inquiries in the first half of 2006. A commercial register related to retail lending (e.g., consumer finance, mortgages) was established in 2004. Slovak Bank Credit Bureau (SBCB) is another registry of credit information owned by three banks. The systems is maintained and operated by an Italian IT company CRIF, which is specializes in register development and maintenance. It is a highly sophisticated system containing positive and negative information with monthly updates. To date, there have been no complaints regarding the access by customer, record keeping, veracity, timeliness, process for disputing information and use of information by the credit bureaus.

Dispute Resolution Mechanisms

The biggest gap in consumer protection in Slovakia is the absence of an effective consumer friendly dispute resolution mechanism to enforce consumer protection rules and redress aggrieved consumers of the financial system. The Consumer Credit Law provides a list of consumer rights in the event the service is not provided as per agreement: suspension of consumer credit repayments until the complaint against the seller has been resolved without an increase in the cost to the consumer credit; return of prorated portion of the repayments already made; and agreement on a new repayment schedule (Section 7). There is nothing specific in the Consumer Credit Law that describes unfair and deceptive practices and provide relieve for it. The law seems to assume that once the requirements of section 4 of the Act are fulfilled, the relief provided in section 7 is sufficient. Apart from that, there is no provision in the law that provides for consumer complaint procedures, structures and the duration within which complaints ought to be made and resolved.

The consumers are left to the vagaries of the court system and Civil Law to enforce their consumer rights and seek redresses for harm suffered, which is painstakingly slow and perceived as an unproductive process. The foregoing is premised upon the ease or difficulty of enforcing commercial contracts in Slovakia measured by the Doing Business Report of 2007[8], gives a good comparable indication for the enforcement of consumer right. (The measurement is determined by following the evolution of a payment dispute and tracking the time, cost, and number of procedures involved from the moment a plaintiff files the lawsuit until actual payment).

The Government tried to ameliorate the situation by introducing the Mediation Act 420/2004 Coll.L.L., and it came to force in September 1, 2004. Though mediation has been practiced since the 90s, there were very few cases that were mediated. In fact, there were only a total of about 50 cases of business-to-business mediation until 2003. The Mediation Act No. 420/2004 was an attempt to improve the utilization of mediation as an alternate dispute settlement mechanism. The resolution of a mediator is binding on both parties and either party can ask for court execution when the resolution has the form of a legal deed. From interviews with banks and consumer organizations, it was clear that mediation is not used to deal with disputes between customer and banks. The national-level Center for Legal Assistance established in 2006 by the Government provides a form of formal dispute resolution mechanism through its mediators, but is confined to the poor or those in "material need." It handled only four cases on consumer credit by non-banks in the past year.

The Arbitration Court set up pursuant to Act No. 244/2002 Coll. Resolve disputes arising out of the Payments Act, is the only "near consumer friendly" dispute resolution in the financial system but unfortunately it is hardly used. The contracting parties agree to resolve any dispute arising from payment system. The Court operates under the aegis of the Association of Banks pursuant to the Payments Act No. 510/2002 Coll. The arbitration is held at a site of arbiter and the arbiter makes decision in the matter without having any verbal session but based on the written documents only presented by the parties in a deadline set by the arbiter. The arbitrary decision is final and binding and the final decision becomes effective on a delivery date. Payment contracts provide that the Bank and the Borrower will accept the arbiter's decision voluntarily. The arbitration clause is a part of the Agreement and is binding for legal successors of both contracting parties. The Association of Banks confirmed that the court has only handled one case since its set up in 2004. Either the payments system is bereft of consumer woes or the arbitration process is too complicated that it effectively keeps consumers away.

There is no legal requirement for banks to have any internal avenue for claims and dispute resolution and banks have internal avenue for dispute settlement as a matter of good business practice. The Bankers Association noted that many banks have "some" form" dispute settlement arrangement within the bank. They usually have a designated officer to receive complaints. The banks usually inform the customers of the internal procedures when a complaint is to be made. Not all banks designate employees to handle inquiries and complaints. Many customers are unaware of the internal procedures and avail themselves to these procedures even if they exist. Bank such as Slovenksa Sporitelna have an established internal dispute settlement. Customers are informed upfront of the existence of the system and time taken and are given a brochure carrying with the name of the officer in charge of complaints and the internal ombudsman. The Banker Association has indicated that it will establish an ombudsman in late 2007. It would be appropriate for the disputes between customers of banks and banks in Slovakia to utilize the ombudsman proposed by the Association of Banks.

[8] Doing Business Report 2007, World Bank.

NBS performs hardly any oversight on the implementation of consumer protection provisions in the regulations. The only forms of oversight provided by National Bank of Slovakia is the discussion bank examiners have with the internal auditor of banks. It is unclear how this meeting helps in the oversight. Article 6 of the Act on Banks is often quoted to explain why the NBS cannot look into consumer protection matters. However Section 1 states that, "The purpose of supervision of the financial market is to contribute to the stability of the financial market as a whole, as well as it its safe and smooth operation, in the interest of maintaining the credibility of the financial market, the protection of customers and the compliance with the rules of Competition." It is not suggested that NBS carry out special investigation on consumer protection enforcement. However the NBS could seek written affirmation of banks on their compliance with consumer protection rules issued under the Payments Law, Act on Banks and the National Bank of Slovakia regulations.

Guarantees and Compensation Funds

Article 50 of the Act on Banks 483/2001 provides the relevant and comprehensive powers to the National Bank of Slovakia to take prompt corrective action against any bank or branch office of a foreign bank. Under Article 53 the National Bank may appoint an administrator to prevent further deterioration of bank, and amongst other things, to protect deposits and other rights of clients of the bank against damage or growing damage. These measures include adoption of a recovery program and to ensure conditions for the enforcement of claims of depositors ensuing from the system of deposit protection and where the deposits become inaccessible, lead the bank towards the declaration of bankruptcy or entering liquidation.

In Slovakia bank deposit protection is provided through the Deposit Protection Fund (DPF), established by Act No 118/1996 Coll. on deposit protection. The law came into effective in July 1996. Article 3 of the law defines deposits that are covered by the deposit insurance and deposits enjoy a protection of 20,000 Euro per bank. Article 8 states that The National Bank of Slovakia has to decide within three days of receiving the bank's notification of its inability to pay whether to notify DPF. Upon notification by the NBS, DPF announces the commencement, term, place and procedure for disbursing compensation, this within five days. Article 10 requires compensation disbursement to be completed within three months of the bank being declared insolvent to pay out deposits and the DPF has met this requirement in the past. The past experience of the DPF in handling the payment for four banks since 2001 has provided the Fund sufficient practical and administrative experience in handling pay outs in an efficient manner. There have been no major issues in the timeliness and accuracy of payment. The process for verification has stood the test of time.

The only problem in the areas of insolvency that adversely affects customers is the liquidation process and the ranking of deposits not covered by DPF. Deposits not covered under the Deposit Protection Fund are ranked *pari passu* with general creditors. The liquidation process in Slovakia is very long drawn and takes up to 6 years. The 4 banks that were submitted for liquidation in 2002 are yet to be resolved. The Doing Business Indicator 2007 of the World Bank indicates the time and cost required for resolving bankruptcies which is shown below. (The data identifies weaknesses in existing bankruptcy law and the main procedural and administrative bottlenecks in the bankruptcy process.) The recovery rate, expressed in terms of how many cents on the dollar claimants recover from the insolvent firm, is also shown. (See Table 3.)

Table 3: Court Processing of Bankruptcies

Indicator	Slovakia	Region	OECD
Time (years)	4.0	3.5	1.4
Cost (% of estate)	18.0	14.3	7.1
Recovery rate (cents on the dollar)	48.1	29.5	74.0

Source: Doing Business 2007, World Bank

Given the cost and duration taken for liquidation, deposits of a bank ought to rank higher than general creditors of a bank. This is a generally accepted principle. Some countries have embarked on enacting a special insolvency law just for the liquidation of banks and insurance company. This is in view of expediting deposit refund and also to ensure that depositors and insurance holders get priority over other debtors. This needs to be addressed through an amendment to the New Bankruptcy Act, supplemented by the Decree on Insolvency and Excessive Indebtedness that came into effect on January 1, 2006. The court process in liquidation cases need to be reviewed to identify the reasons for delay and recommendations to address the delays.

Consumer Education and Financial Literacy

The Achilles heel of the consumer protection in financial sector is the absence of concerted effort to educate and improve financial literacy of the consumers. Though some banks engage the press to provide information to consumers. There was no evidence of active engagement of the press in the area of financial products or issues. Weekly papers such as *Trend* take a keen interest in financial sector issues. The Card Association has its website where consumer education is provided and the National Bank of Slovakia has a website that publishes information on its activities that can assist the press to analysis and publicize important issues in the financial sector. The National Bank also issues press statements. However the Bankers Association does not carry out any specific consumer education.

There is a need for close collaboration between the National Bank, the Bankers Association, the other industry association and the press in the area of consumer awareness and education. The National Bank and the Bankers Association must also look for ways of engaging consumer protection organization in this endeavor. There was no evidence of any effort on the part of the government or regulator in providing through a formal channel, consumer awareness or information. As indicated earlier, the Ministry provides a grant of SKK 2.2million to about 6 organizations (out of 30) that are deal with all consumer affairs, which does not seem to result in any effective change in the consumer awareness level. Clearly there has to be an increase in the grant provided to these organizations.

There was no evidence of a strategy for the inclusion of financial education in the education curriculum of the country. Since financial products are sophisticated, consumers require help in improving their awareness and knowledge level. The government needs to seriously consider having a formal agency to provide information on financial sector to public based on a clear strategy developed in collaboration with the National Bank, consumer protection association and industry association. The agency must also be empowered to collect data and provide assistance with inquiries. Steps need to be taken in collaboration with the Ministry of Education to include appropriate financial education in the national education system.

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 access.

SECTION A	**CONSUMER PROTECTION INSTITUTIONS**
Good Practice A.1	**The legal system should recognize and provide for clear rules on consumer protection in the area of banking and there must be adequate institutional arrangements for implementation and enforcement of consumer protection rules.** ***Legal System*** **a. There should be specific legal provisions in the law which creates an effective regime for the protection of consumers of banking services.** **b. There should be a general consumer agency or specialized agency, responsible for implementing, overseeing, enforcing 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	a. The general law governing consumer protection in Slovakia is the Law No. 634/1992 Coll. on Consumer Protection. This law vests the powers in the Slovak Trade Inspection Office (STI) to ensure consumer protection in all matters. Act No. **266/2005** Coll. on the consumer protection provides for protection in connection with the distance financial services. The Consumer Credit Law No. 258/2001 Coll., provides for consumer protection in credit agreements including consumer credit provided by banks. Acording to Section 2, the Act does not apply to- - Credit agreements with value less than EUR 200 and not more than EUR 20,000. Under this section, credit agreements entered for the same purpose between the same creditor and consumer is aggregated and constitutes a single consumer credit. - If the repayment period of the credit does not exceed three months, - If the number of instalments do not exceed four instalments in a year. b. 1 The STI carries out inspection to enforce all the consumer protection laws mentioned above. The STI carries out investigation on its own accord and also based on public complaints. It received 6000 complaint in 2006 and only 20 related to complaints relating to consumer credit. It carried out 38 inspections in 2006. Contraventions of Section 3, and Sections 4 (1) to (3), and (5) of the Consumer Credit Law empowers the STI to impose upon the creditor a fine of up to SKK 500,000. If the creditor fails to pay the fine, the STI commences sanction proceedings. There has been no sanction proceeding under the Consumer Credit Law. While STI looks into complaints and carries out inspection, it is not empowered to collect

	data on inquires, disputes. It has data on complaints received from customers. Thus there is centralized or comprehensive collection of data or analysis on consumer issues in the financial services. c. There is nothing in the law that prevents private sector, including voluntary consumer protection organizations and self-regulatory organizations to pursue consumer protection. Pursuant to Act No. 634/1992 Coll. on Consumer Protection, the Ministry of Economy contributes, on yearly basis, to the activity of non-governmental consumer organisations based on the submitted projects. The subsidies range from SKK 100,000 to SKK 800,000 for the individual organisations. For the year 2007, six consumer associations were granted a total amount of SKK 2.5 million.
Recommendation	The Consumer Credit Law needs to be amended to include all types of consumer credit contracts. The STI or a centralized agency must start receiving inquiries, complaints and provide avenue for dispute settlement. The agency must also collect relevant data to have sufficient statistics on- -the type and frequency of complaints, inquiries and disputes. -the segment of consumer and creditors who are subject to the complaints, inquiries and disputes -the time taken to resolve issues and success rates Collection of the aforesaid data permits the agency to formulate concrete consumer protection strategy, targeted consumer education, targeted enforcement and also effective changes to the legal framework.
Good Practice A.2	***Code of Conduct for Bankers*** **a. Banks ought to have a voluntary Code of Conduct and comply with the code.** **b. Appropriate mechanism ought to be in place to impose sanction on breach of the Code of Conduct.** **c. Banks must publicize the Code of Conduct to general public through appropriate means.** **d. Banks should, as far as possible, endeavor to reach and observe commonality in terminology regarding the description of bank charges, services and products, and to use such terminology when publishing or displaying details of such charges.**
Description	a. Currently there is no Code of Conduct for bankers. The Association of Bankers will be passing a new Code of Conduct for Bankers in June/July 2007. The Code is to be binding on the Banks and expected to be publicized. The Code is to contain provisions on consumer protection and best practices in the areas of –commitments, advice, choice of the appropriate product/service, interest rate, charges, terms and conditions, advertisement and marketing, current accounts, credit cards, payment cards, credits, financial advice and complaints. b. The effectiveness of publicity, the form and procedures for sanction on non compliance by banks will only be known once the Code is passed. c. The banks through the Association of Banks do endeavor to use commonality in terminology on charges, services and products. In 2006, a Fee book was published by the Association. The fact that banking is one the oldest form of financial services has helped in the commonality in terminology. The Association is continuing to work on this.
Recommendation	It is important for a Code of Conduct to be passed with appropriate enforcement mechanism. The Code of Conduct must also be effectively disseminated to the public, not only by individual banks but through the Association and other consumer interest groups.
Good Practice A.3	***Other Institutional arrangements*** **a. The judicial system must 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	a. The Civil Code apart from providing broad consumer protection to consumers provides for the enforcement of its provision through the Court process. Customers can obtain general relieve under the Civil Code by taking the creditor to court for damages suffered. The court system in Slovakia is sluggish and cases like this may take more than 3 years on the average. This practically shuts the avenue in the Civil Code. b. The media does contribute to consumer protection through improvement in consumer awareness. But this is usually after the fact such as in the BMG case. The consumer protection associations are not active in the area of financial sector. There are about 30 such associations but commonly plagued by lack of funding. The amount of funding allocated by the Ministry of Finance is not sufficient.
Recommendation	There must be an alternative dispute settlement mechanism sponsored by either the government or industry to reduce the number of customers who have to rely on the regular court system for relieve. The media needs to be actively engaged in the consumer protection and education by the government, regulators and industry. The allocation of funding for consumer protection institutions need to be reviewed with a view of provided more targeted but sufficient funding. The funding ought to be to further the government's strategy in the consumer protection area.
SECTION B	**DISCLOSURE & SALES PRACTICES**
Good Practice B.1	**Disclosure principles cover the consumer's relationship with the bank in all three stages of such relationships: pre-sale, point of sale, and post sale. The nature, clarity and information available and provided to the consumer need to inform the consumer of choice of accounts products and services.**
Description	Article 37 of the Bank Act requires a bank including a branch office of a foreign bank to provide comprehensive information in Slovak language and in writing on terms and conditions for accepting deposits, providing loans and conducting, other transactions and their prices, including examples, on both its Internet site and at its business premises. A bank or branch office of a foreign bank must inform customers about any change in the terms and conditions for conducting its transactions and their prices in the same manner, at least 15, days before such a change becomes effective, unless provided otherwise by a separate regulation or the agreement with their client. Article 37(3) requires banks or branch office of a foreign bank to provide the Ministry and the National Bank of Slovakia information on client fees in selected types of transactions. The National Bank of Slovakia is required to publish this information on its Internet site.
Recommendation	No recommendations are presented.
Good Practice B.2	***Formal Disclosure*** **a. There must be clear rules on solicitation and issuance of banking services including electronic fund transfers and other payment instruments.** **b. Banks should ensure their advertising and sales materials and procedures do not mislead the customers.** **c. The bank 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 before the point of opening of the account, disclosing the key factors of the lending product or services.**
Description	Article 37(2) of Bank Act, requires that when concluding any written transaction agreement, a bank or branch office of a foreign bank must inform the client of the annual percentage rate applied to the transaction, provided an interest rate has been agreed, and on all sums charged to the client or paid by the bank in connection with the agreement.

	Under Article 37(12), The National Bank of Slovakia is required to issue regulation on : • the extent and method of disclosure of information provided to clients under section 37 (2), • the type of transactions and the scope, method and time period for the provision of information; • the scope and method of publishing information the method of publishing a correction, • what is deemed a substantial misstatement The Payments Law provides details provisions on the disclosures to be made in a payment transaction. Article 67- 73 of the Act on Banks, deal with terms and conditions on the granting of mortgage loan and issue of mortgage bonds. Banks ensure that they comply with the legal requirements of the Act on Banks and the regulations issued under it.
Recommendation	No recommendations are presented.
Good Practice B.3	***Special Disclosures*** **a. Banks must disclose information relating to the accounts including, methods of computation, any other charges related to the product, service charges, restrictions on inter account transfers (any foreign currency exposure risk), fraud protection over accounts, procedures for closing account, fee on closure of account.** **b. Borrowers must also be provided with meaningful, written information on essential credit terms, including the cost of credit expressed as an effective interest rate.** **c. Borrowers need to be provided with "early" disclosure of credit terms in adjustable rate mortgages, home equity lines of credit.** **d. Information on planned price changes must be notified to the consumer at least two months before the date of change.** **e. Banks must inform upfront whether the deposit product they are offering enjoy guarantee.** **f. Customers must be informed upfront on the time, manner and process of disputing information on the statements and transactions.** **g. Marketing personnel and officers selling and approving transactions should have sufficient qualifications, depending on the complexities of the products they sell.**
Description	A-c. The Association however, has a Voluntary Code of Conduct on pre-contractual information for home loans. It was drawn up by the European Union in March 2001 to guarantee that consumers receive transparent and comparable information on housing loans in order to encourage cross- boarder competition. It also covers information on home loan on offer. Personalized information at a pre contractual stage presented in a European Standardized Information Sheet (ESIS). Banks comply with this requirement. d. section 37 of Act on Banks require a bank or branch office of a foreign bank to inform customers about any change in the terms and conditions for conducting its transactions and their prices in the same manner, at least 15, days before such a change becomes effective, unless provided otherwise by a separate regulation or the agreement with their client. e. Section 37(4) of the Act on Banks, requires a bank or branch office of a foreign bank to make public at its business premises information in writing about deposit protection in the extent specified in a separate law. Information must also be published on transactions involving to explicitly specify whether the deposit is covered by deposit protection. The same applies to passbooks, certificates of deposit and documents on similar deposit relationships.

	f. Banks make it a point to indicate the process, procedures and manner in which disputes relating to transaction are to be made. Information is also provided in the statement on the manner in which to dispute transactions. g. Bank employees do not go through any specialized accreditation for selling non banking products. There was no evidence of banks requiring its marketing personnel and officers to be current with the legislation.
Recommendation	It is important that bank employees who sell non bank products have sufficient knowledge and appropriate training to ensure that the consumers are guided and are not misinformed about the products being offered.
Good Practice B.4	***Roles of Third Parties*** **a. All banks should be rated for their credit-worthiness and claims paying by internationally credible institutions.** **b. Regulator or Supervisor ought to publish annual public reports on the development, health and strength of the banking industry either as special report or as part of their disclosure and accountability requirement under the law governing it.** **c. The banks should be required to provide financial information on each institution to enable the general public to form an opinion as to the financial viability of the institution.**
Description	a. All major banks have received credit ratings from reputable international agencies. b. Article 39 requires (3) The National Bank of Slovakia shall publish an Annual Report containing basic data on monetary developments in the Slovak Republic, upon its consideration by the National Council of the Slovak Republic. c. Article 42 of the Act on Banks requires that banks publish: (1) their annual report, (2) semi-annual information about financial indicators and the structure of consolidated group, and (3) quarterly information about its activities, including information about any corrective actions imposed, its financial indicators and major shareholders. Decree 5/2004 requires quarterly disclosure of licensed activities, the list of shareholders and consolidated group information. The information, including the annual report must be made available on all business premises of the bank and on its website. Slovak banks are required to prepare and publish annual reports, including detailed notes on financial statements, as per the Commercial Code, Act on Accounting, Act on Banks, and Auditing Act. Ministry of Finance Provision 5292-2005-74 requires that bank financial statements include a description of credit, market and other risks, and means applied to address the risks. Decree 5/2004, which last updated in January 2006, stipulates the method of publication of the banks annual reports, including through each bank's website. Slovakia has an active independent press reviewing and commenting on banks' performance and development. In addition, major international rating agencies provide ratings on major banks or their foreign parents.
Recommendation	In order to improve market discipline all banks should be required to disclose their debt ratings to the public since customers may not be sophisticated to understand financial statements.
Good Practice B.5	***Contracts*** **a. There should be specialized contracts for lending and services contracts and the contents of a contract ought to be read by the customer or explained to the customer before it is signed.** **b. There must be cooling-off period associated with any credit arrangement.**
Description	a. The banks use different contract for different services. Some banks provide a summary of the agreements for easy comprehension by customers. The customers are requested to read them before signing the agreements. b. There is no cooling off period for contracts entered into with the banks.

Recommendation	The banks ought to inform customers and provide a cooling off period for contracts such as mortgages and loans. This is a common practice in most countries. The customer must have the right to withdraw from the arrangement without having to incur expenses other the transaction processing free agreed up front.
SECTION C	**CUSTOMER ACCOUNT HANDLING AND MAINTENANCE**
Good Practice C.1	**a. 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 bank, are important.** **b. The customer should receive monthly streamlined bank statement for each account maintained 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, banks must ensure that the consumer is able to read and understand such online statements.** **e. Banks must notify customers of inactivity of accounts and provide final notice if the funds are to be transferred to the state.**
Description	a. Customers receive specific periodic bank statement and alerts from banks. b. The practices of the banking sector are in line with the international good practice in this area. This could be due to the fact that most banks are foreign owned and have to comply with the home country and EU requirements. c. As indicated earlier, banks make it a point to indicate the process, procedures and manner in which disputes relating to transaction are to be made. Information is also provided in the statement on the manner in which to dispute transactions. d. About 35% of the customers conduct electronic banking and the rules on these are clear including the form of notification. Debit card contribute to 95% of the value of transactions. The rules pertaining to issue of debit cards and settlement is governed by the Card Association of Slovakia. This association ensures that the practices are in line with international practices. e. Though inactivity in an account is notified, it is unclear whether banks provide final notice of funds that will be transferred to the State due to inactivity beyond 7-10 years.
Recommendation	No recommendations are presented.
Good Practice C.2	***Mortgages*** **Mortgage statement ought to clearly indicate the amount paid outstanding amount and the allocation of payment to the principal and interest and, if applicable, tax accruals.**
Description	Monthly statement indicates the total amount paid and the outstanding amount. However it is not clear whether bank indicate the amount allocated to the payment to the principal and to interest.
Recommendation	Banks must indicate in the statement the amount paid towards principal and interest.
Good Practice C.3	***Credit Cards*** **a. Consumers must 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 must be clear rules on reporting of unauthorized transaction or stolen cards and liability ought to be made clear at the point of agreement.**
Description	a. Customers are provided statements which indicate the minimum payment and costs

	related to the outstanding amount. Only 25% of the cards issued to customers constitute credit cards and it only accounts for 5% of the total value of transaction. Credit cards are issued by banks and they comply with the international agreement on credit card issued by Visa and Master Card. b. In the event of stolen cards there is a requirement for reporting within 24 hours. Hotline is provided to customers and the standard agreements stipulate the terms on this clearly. Banks do not absolve customers of unauthorized transactions. They carry out an investigation and inform the customer of the outcome within an agreed period. Customers do not generally pay if there is fraud. Some banks issue insurance to protect unauthorized use.
Recommendation	Banks in Slovakia need to move towards international good practice in this area so that a statement under oath on unauthorized transactions ought to absolve the customer of any liability for the unauthorized payment.
Good Practice C.4	***Checks*** **a. The issuance and clearing of checks must be based on clear legal rules.** **b. Banks must act fairly and reasonably when dealing with dishonored checks and honor checks without inquiry as long as the legal requirements are met.** **c. Banks must inform customer upfront the consequences of issuing a check without sufficient funds.** **d. Banks must credit consumer accounts when a deposited check clears, within the hold period allowed by law.** **e. Banks must promise to return funds to a consumer checking account with in agreed number of business days when something goes wrong with a check.** **f. Where necessary, there must be rules and regulation to cap the charges on check issuance and clearance.**
Description	Not applicable in Slovakia
Recommendation	Not applicable.
Good Practice C.5	***Debt Recovery*** **a. The customer must be 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 the debts and the manner in which debt can be collected must be indicated to customer at the time transaction is entered into.** **c. The right of debt collector to contact anyone else about a customer's debt must be indicated and the type of information they may seek must also be provided.** **d. There ought to be legal rules prohibiting debt collectors from using false statements when collecting a debt, using unfair practices, giving false credit information to others, including a credit bureau.**
Description	There are no legal provisions, including in the Consumer Credit Law on debt collection. Banks indicate in their agreements the details on debt collection. Banks usually employ debt collectors and enter into agreement with these companies on the terms of collection. The banks indicated that they ensure that the debt collectors do not employ abusive methods through their agreement. There are no clear rules on prohibiting debt collectors from using false statement when collecting a debt, using unfair practices and giving false credit information to others.
Recommendation	The Consumer Credit Law must be amended to provide for the above requirements. It is also important the banks ensure that the law is complied with and their debt collectors are contractually bound to comply with the law.

SECTION D	PRIVACY & DATA PROTECTION
Good Practice D.1	**Customers of bank have a right to expect that their financial activities will have privacy from federal government scrutiny and others. The law ought to require banks 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	Article 91 of the Act on Banks provides for extensive provisions on secrecy and privacy of information. Under this section, all information and documents on matters concerning the clients of a bank or branch office of a foreign bank which are not publicly available, especially information on transactions, account and deposit balances. A bank or branch office of a foreign bank must also keep such information confidential and protect it against disclosure, misuse, damage, destruction, loss or theft. The exceptions are clearly stated. Banks consider privacy and banking secrecy very important and ensure compliance with the requirements of the law.
Recommendation	No recommendations are presented.
Good Practice D.2	***Information customer*** **a. Banks must inform the consumer of third party dealings for which the bank must share information regarding the consumers account such as legal enquiries by a credit bureau.** **b. Banks ought to explain how they use and share customers personal information and banks must be committed not to sell or share account or personal information to outside companies that are not affiliated with the bank 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 banks ought to inform the customers of their option.** **d. The law ought to prohibit the disclosure of information of customers by third parties.**
Description	a-b. Under Article 37 of the Acts on Banks, information and documents on matters covered by bank secrecy may be disclosed by a bank or branch office of a foreign bank to a third person only subject to prior written consent of the client concerned or upon his written instruction, unless stipulated otherwise by this Act. b. The contractual terms of the provision of services by bank contain clear provision on use of customer information and they do undertake not to sell the information to others. c. Since the law on banking secrecy and privacy is rather detailed and strict, the banks do not provide an "opt out "provision to customers. Since most agreements are fixed, the customers have little choice on sharing of information. d. Article 93 of the Act on Banks require employees of a bank or branch office of a foreign bank, members of a bank's statutory body or supervisory board, the mortgage controller and his deputy, and persons making translations to keep confidential any matters relevant to the interests of the bank or branch office of a foreign bank and its clients, unless this Act stipulates otherwise. The aforementioned persons may be exempted from this obligation by the statutory body of the bank or the chief executive officer of the branch office of a foreign bank due to reasons listed in Article 91, paragraphs 3 to 7, and Article 92, paragraphs 1 to 5. Employees and members of bodies of a designated legal person ensuring the execution of payments and clearing shall be obligated not to disclose any matters associated with the execution of such payments and clearing to any third person, except to the National Bank of Slovakia in performing its tasks in accordance with this Act or a separate

	regulation. The obligation of confidentiality shall extend beyond the term of employment or other work contract and the term of office pursuant to paragraphs 1 or 2. Article 60 of The Payments Law also provides for the obligation of confidentiality on information acquired during oversight of Payment Systems. The Article also provides for a restricted exception to the rule for the purposes of reporting. The law is clear and comprehensive on the protection of not only consumer privacy but also the protection of data and circumstances under which the information may be provided to 3rd parties.
Recommendation	Banks must inform customers of their right to "opt out" when it comes to disclosing information to 3rd parties who buy information for marketing purposes.
Good Practice D.3	***Permitted Disclosures*** **a. The law ought to state specific procedures and exceptions concerning the release of customer financial records to government authorities.** **b. The law ought to provide for penalties for breach of banking secrecy.**
Description	The law is specific, detailed and comprehensive in this area. Article 90 of Acts on Banks require a bank or branch office of a foreign bank to notify in writing to the relevant tax office according to the registered office or domicile of a business person who is its client, the number of each opened and closed current or deposit account held by the business person who is or has been its client, within 10 days of the end of the calendar month in which the account was opened or closed; such information may only be further disclosed by the tax office in accordance with a separate regulation. Article 91 provides that disclosure of information in summary form is not considered a violation of bank secrecy. Article 91(3) A bank or branch office of a foreign bank must submit a report on all facts that are subject to bank secrecy. Article 91 also provides the persons to whom information may be revealed by banks without client's consent for example, bank supervisors, auditors, Deposit Protection Fund. Article 91(4): Provides further exceptions to the rule such as disclosure to court of law and National security office.
Recommendation	No recommendations are presented.
Good Practice D.5	***Credit Bureaus*** **a. Banks must ensure the accuracy and credibility of the information that it shares.** **b. Credit bureaus must comply with the timeliness of updating information of consumers.** **c. Consumer's record 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 credit record, and customers must be informed about the retention period.** **e. Customers must have access to credit report and be provided with a copy of report on conditions that are transparent.** **f. There must be establishes procedures for correcting mistakes on a consumer's credit report**
Description	Article 37 of the Act on Banks, provides that information and documents on matters covered by bank secrecy may be disclosed by a bank or branch office of a foreign bank to a third person only subject to prior written consent of the client concerned or upon his

	written instruction, unless stipulated otherwise by this Act. In return for payment of practical costs, a client shall have the right to obtain information kept on him in the database of a bank or branch office of a foreign bank, and to receive a transcript of such information. The Register of Bank Loans and Guarantees, operated by the NBS, is broadly used by banks. The registry, established in 1997. It is collecting both positive and negative data, and early registration has been introduced. The credit registry has 216 registered users (in banks and NBS) and over 273,000 inquiries in the first half of 2006. A commercial register related to retail lending (e.g., consumer finance, mortgages) was established in 2004. The register is owned by three banks, which have established a joint stock company Slovak Bank Credit Bureau (SBCB) that manages the commercial register. Access was kept open, and there are currently 16 participants. The systems is maintained and operated by an Italian IT company CRIF, which is specialized in register development and maintenance. It is a highly sophisticated system containing positive and negative information with monthly updates. There have been no complaints regarding the veracity, the timeliness and use of information by the credit bureaus so far.
Recommendation	No recommendations are presented.
SECTION E	**DISPUTE RESOLUTION MECHANISMS**
Good Practice E.1	**There must be independent dispute resolution service for resolving disputes that individuals and businesses have with their financial service providers, in this case, banks.** ***Unfair Practice and Deceptive Acts Defined*** **a. There must be clear legal provision that defines unfair or deceptive acts or practices of banks in connection with provision of credit and other banking services to the consumers.** **b. The legal provision ought to provide for consumer complaint procedures, structures and the duration within which complaints ought to be made and resolved.**
Description	Consumer Credit Law provides for the way in which consumer credit may be given. Section 3 provides the information the agreement must contain and also some of the basic rights of the customer such as the form of contract, the descriptions of services, the particulars of the borrower. Section 7 provides a list of consumer rights in the event the service is not provided as per agreement- suspension of consumer credit repayments till the complaint against the seller has been resolved without an increase in the cost to the consumer credit; return of prorated portion of the repayments already made, agreement on a new repayment schedule. There is nothing specific in the Consumer Credit Law that describes unfair and deceptive practices and provide relieve for it. The law seems to assume that once the requirements of section 4 are fulfilled, the relief provided in section 7 is sufficient. There is no provision in the law The legal provision ought to provide for consumer complaint procedures, structures and the duration within which complaints ought to be made and resolved. Trade Inspection Department can investigate and fine the offences against the Consumer Protection Law and Consumer Credit Law. It does not assist in the resolution of the problem of the consumer.

	The consumer protection associations, being short of funds hardly assist consumers. Though the Mediation law provides for mediators, the system is not effective unless they are attached to either a consumer protection association or Legal Aid Centre.
Recommendation	There is a need to amend the Consumer Credit law to provide for prohibition of deceptive and unfair practices. The law needs to also establish clear procedures for customer complaints; time bound resolution and a formal mechanism for dispute resolution.
Good Practice E. 2	***Internal Dispute Settlement*** **a. An internal avenue for claim and dispute resolution practices within the bank must required by the supervisory agency.** **b. Banks should provide designated employees available to consumers for inquiries and complaints.** **c. The bank must inform its customers of the internal procedures on dispute resolution.** **d. The regulator or supervisor must provide oversight on whether banks comply with their internal procedures on consumer protection rules.**
Description	There is no legal requirement for banks to have any internal avenue for claims and dispute resolution. Banks do it as a matter of good business practice. The Bankers Association informed that many banks have "some" form" dispute settlement arrangement within the bank. They usually have a designated officer to receive complaints. The banks usually inform the customers of the internal procedures when a complaint is to be made. Not all banks designate employees to handle inquiries and complaints. Many customers are unaware of the internal procedures and avail themselves to these procedures even if they exist. Bank such as Slovenksa Sporitelna have an established internal dispute settlement. Customers are informed upfront of the existence of the system; brochures carrying the information of the officer in charge of complaints are given to the customers; the ombudsman is independent and reports directly to the CEO of the Bank. The time taken to resolve the complaint is given up front Slovenska Sporitelna also collects the data on the complaints and it is reported to the CEO of the bank. The only forms of oversight provided by National Bank of Slovakia is the discussion bank examiners have with the internal auditor of banks. It is unclear how this meeting helps in the oversight. Article 6 of the Act on Banks prohibits the National Bank from interfering with the relationship between a bank and its customer, though Section 1 of the law states that "The purpose of supervision of the financial market is to contribute to the stability of the financial market as a whole, as well as it its safe and smooth operation, in the interest of maintaining the credibility of the financial market, the protection of customers and the compliance with the rules of Competition."
Recommendation	While it is important for the Supervisor not to interfere in disputes between customer and banks, it is the duty of National Bank to ensure that banks adopt good banking principle which includes having in house dispute resolution mechanism, clear procedure and compliance with those rules. A legal requirement for internal dispute resolution mechanism and a report of compliance with the foregoing from banks yearly will go a long way to improve. It is not suggested that National Bank regulates the set-up or the procedures of the dispute settlement mechanism.
Good Practice E.2	***Formal Claims Dispute Mechanisms***

	a. A system should be in place that allows consumers to seek third party recourse in the event they cannot resolve an issue with the bank, which could be a banking ombudsman or tribunal (ombudsman). **b. The role of a banking ombudsman or equivalent institution vis-à-vis consumer complaints must be in place and made known to the public.** **c. Ombudsman's impartiality and independence from the appointing authority must also be assured.** **d. The enforcement mechanism of the decisions of the ombudsman or equivalent institution and binding nature of the decision on banks must be in place and publicized.**
Description	There is no such legal requirement for the set up of an internal dispute resolution The National level Legal Help Organization established one year ago by the Government provides a form of formal dispute resolution mechanism through its mediators, but is confined to the poor or those in "material need". It was informed that they have only handled 4 cases on consumer credit by non banks in the past one year. Article 67 of The Payment System Law 510/2002 provides for the establishment of an Arbitration process for disputes arising in the payment system. Banks and foreign bank branches are obligated to establish jointly or by means of an interest group) a permanent court of arbitration with its registered head office in Bratislava. The law also provides for branches of this permanent court of arbitration may also be established by its statutes. The Arbitration Court is competent to decide primarily on disputes regarding payments arising between- - Banks/ participating institutions and their customers on transfers - Issuers and holders of electronic means of payment and customers on issue and use of electronic means of payment. The Article sets out clearly the process, the timelines, cost and related issues to ensure the implementation of the dispute resolution mechanism. There has been only one dispute brought to the arbitrator in the past 2 years. Article 71 provides that the founder of the permanent court of arbitration must submit to the National Bank of Slovakia a report on the operations and the Budget of such a court for the calendar year at the latest by 31 March of the following year. The Banker Association has indicated that it will establish an ombudsman in June/ July of 2007. It will be a self regulated body, independent to solve disputes between a customer and a bank. It is to be customer friendly and its decision to be binding on the bank.
Recommendation	Arbitration is always seen as complex and legalistic, especially for a common man. Perhaps that accounts for the single case filed in the Arbitration court in the past 2 years. It would be more appropriate for the disputes between customers of banks and banks in Slovakia to utilize the ombudsman proposed by the Association of Banks.
SECTION F	**GUARANTEE & COMPENSATION SCHEMES**
Good Practice F.1	***Depositors protection*** **a. There must be clear provision in the law to ensure that regulator can take prompt corrective action on a timely basis.** **b. The law on deposit insurance must be clear on the amount of deposit and the type of deposits that are covered under the law.** **c. There must be effective mechanism in place for the pay out of deposits protected by the guarantee on timely manner.** **d. In the absence of deposit insurance, there must be and effective and timely payout mechanism in the event of insolvency of a bank.**

Description	a. Article 50 of the Act on Banks 483/2001 provides the relevant and comprehensive powers to the National Bank of Slovakia to take prompt corrective action against any bank or branch office of a foreign bank. Under Article 53 the National Bank may appoint an administrator to prevent further deterioration of bank, and amongst other things, to protect deposits and other rights of clients of the bank against damage or growing damage. These measures include adoption of a recovery program and to ensure conditions for the enforcement of claims of depositors ensuing from the system of deposit protection and where the deposits become inaccessible, lead the bank towards the declaration of bankruptcy or entering liquidation. b. In Slovakia bank deposit protection is provided through the Deposit Protection Fund (DPF), established by Act of the National Council of the SR No 118/1996 Coll. of 20 March 1996 on deposit protection and the amendment of certain acts, effective since 1 July 1996. Article 3 defines deposits that are covered by the Deposit Insurance. Deposits enjoy a protection of 20, 000 Euro per bank. c. Article 8 states that The National Bank of Slovakia has to decide within three days of receiving the bank's notification of its inability to pay whether to notify DPF. Upon notification by the NBS, DPF announces the commencement, term, place and procedure for disbursing compensation, this within five days. d. Article 10 requires compensation disbursement to be completed within three months of the bank being declared insolvent to pay out deposits, though in justified cases the DPF may request the National Bank of Slovakia for an extension of this deadline by another three months. The past experience of the DPF in handling the payment for 4 banks since 2001 has provided the Fund sufficient practical and administrative experience in handling pay outs in an efficient manner. There have been no major issues in the timeliness and accuracy of payment. The process for verification has stood the test of time.
Recommendation	No recommendations are presented.
Good Practice F.2	***Insolvency*** **a. Deposits of a bank ought to enjoy higher priority than unsecured creditors in the liquidation process.** **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 deposit to depositors.**
Description	a. The deposits not covered under the Deposit Protection Fund are ranked *pari passu* with general creditors. b. The liquidation process is very long drawn and takes up to 6 years. The 4 banks that were submitted for liquidation in 2002 are yet to be resolved.
Recommendation	The deposits of a bank ought to rank higher than general creditors of a bank. This is a generally accepted principle. Some countries have embarked on enacting a special insolvency law just for the liquidation of banks and insurance company. This is in view of expediting deposit refund and also to ensure that depositors and insurance holders get priority over other debtors. This needs to be addressed through an amendment to the New Bankruptcy Act, supplemented by the Decree on Insolvency and Excessive Indebtedness that came into effect on January 1, 2006. The court process in liquidation cases need to be reviewed to identify the reasons for delay and recommendations to address the delays.

SECTION G	CONSUMER EDUCATION & FINANCIAL LITERACY
Good Practice G.1	***Use of Mass-media*** **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	Some banks engage the press to provide information to consumers. There was no evidence of active engagement of the press in the area of financial products or issues. Weekly paper such as Trend seems to take keen interest in financial sector issues. The Card Association has its website where consumer education is provided. The Bankers Association does not carry out any specific consumer education. National Bank of Slovakia has a website that publishes information on its activities that can assist the press to analysis and publicize important issues in the financial sector. The National Bank issues press statements.
Recommendation	There is a need for closer collaboration between the National Bank, the Bankers Association and the press in the area of consumer awareness and education. The National Bank and the Bankers Association must also look for ways of engaging consumer protection organization in this endeavor.
Good Practice G.2	**Formal Consumer Dissemination and Assistance** **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 banking 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	There was no evidence of any effort on the part of the government or regulator in providing through a formal channel, consumer awareness or information. As indicated earlier, the Ministry provides a grant of 2.2m koruna to about 30 organization concerns with all consumer affairs, which does not seem to result in any effective change in the consumer awareness level. There was no evidence of a strategy for the inclusion of financial education in the education curriculum of the country.
Recommendation	Since financial products are sophisticated, consumers require help in improving their awareness and knowledge level. The government needs to seriously consider having a formal entity to provide information on financial sector to public based on a clear strategy developed in collaboration with the National Bank, consumer protection association and industry association. The entity must also be empowered to collect data and provide assistance with inquiries. Steps need to be taken in collaboration with the Ministry of Education to include appropriate financial education in the national education system.

Commercial Credit Companies

While the banks provide most consumer credit in Slovakia, other non-bank financial institutions also make loans to the retail sector. Of primary importance are the consumer credit companies, although to a small degree leasing companies also extend credit to the consumer sector, primarily in the form of leases for personal automobiles.

The consumer finance sector has grown rapidly since the first company was established in 1999. Total assets doubled from 2003 to 2005 to reach SKK 18 billion as noted in Table 4. Over 70 companies are registered in the business registry as consumer credit companies. However many are small companies. The top eight companies represent 90 percent of the assets of the sector and the largest 11 companies have 97 percent of total sector assets.

Table 4: Assets of Other Non-Bank Financial Institutions

Assets in Millions SKK	2003	2004	2005
Consumer Credit Companies	8,000	10,000	17,658
Leasing Companies	114,244	113,300	118,400
Factoring Companies	5,000	7,000	9,000
All Non-bank Lending Companies	127,244	130,330	145,058

Source: NBS Estimates

Commercial credit companies can be divided into three groups, based on ownership of the companies. The four largest consumer credit companies are part of EU financial groups as seen in Table 5. The biggest company, Consumer Finance Holding (CFH) is the successor of the merger of the consumer finance companies, Quatro and Triangel. In 2005, Quatro and Triangel were purchased by VUB Bank, a 95-owned subsidiary of Intesa Sanpaolo S.p.A. The second largest company, Home Credit, is fully owned by PPF Holding, the parent company for Česká pojišťovna, a. s., which itself is the largest insurance company in the Czech Republic. The other two companies are held by BNP Paribas and General Electric Company, the latter being active in consumer finance in emerging markets.

Table 5: Asset Share & Ownership of Commercial Credit Companies

	Total Assets (Millions SKK)	Market Share (%)	Ownership
Consumer Finance Holding, a.s.	5,047	28.6	VUB (Slovakia)/ Intesa Sanpaolo (Italy)
Home Credit, a.s.	4,114	23.3	Česká pojišťovna, a. s. (Czech Republic) /PPF Holding N.V.
GE Money Brokers, a.s.	2,517	14.3	General Electric Company (USA)
Cetelem Slovensko, a.s.	1,775	10.1	BNP Paribas (France)
Profireal Slovakia spol., s.r.o.	1,103	6.2	Profireal, a.s. (Czech Republic)
Pohotovosť, s.r.o.	980	5.5	Ownership information is not publicly available
Provident Financial, s.r.o.	300	1.7	Provident Financial plc (United Kingdom)
Telervis Plus, a.s. (operates as Kešovka)	110	0.6	Ownership information is not publicly available
Others	1,712	9.7	
Total	17,658	100.0	

Source: NBS

Two large commercial credit companies are subsidiaries of EU consumer finance companies but little is publicly disclosed regarding the ownership of the remaining 66 commercial credit companies. Profireal Slovakia is a subsidiary of the Czech company by the same name. Provident Financial is a subsidiary of the UK consumer finance company. The names of the direct owners of all companies is available from the Companies Register (at www.orsr.sk) However no information is publicly available regarding the indirect beneficial ownership of the other consumer finance companies, particularly the small companies.

The primary business of the large consumer finance companies is in providing installment credit for retail purchases of white goods and electronics. For consumer finance companies, the primary products are: (1) "point of sale" purchases where the seller arranges an installment loan for the customer at the time of purchase, (2) unsecured revolving credit lines and (3) cash loans. For the large companies, such as Home Credit in 2005, almost two-thirds of assets related to installment sale loans and one-third to revolving credits.

However the terms and conditions for consumer financing vary. The industry Association of Installment Sales Companies (AOSP) notes that whereas unsecured consumer bank loans are priced at 8 – 10 percent per annum, and secured consumer loans at 10 – 12 percent, installment sale credits with large commercial credit companies are priced at 12 – 14 percent. (Average loans for installment sales are about SKK 12,000 with repayment of up to one year and SKK 30,000 for revolving credits.) However among the companies that specialize in revolving credits and unsecured cash loans, interest rates appear to be substantially higher. Disbursed through bank cards, revolving credits are priced at 23 to 26 percent per annum. However unsecured consumer loans are still higher, in some cases, at over 200 percent per annum.[9] Ministry of Finance research in early 2007 confirmed interest rates of between 160 and 250 percent provided by three companies among the top eight commercial credit companies belonging to AOSP. The consumer finance companies offer ease of documentation and the ability to sign loan documents in one's residence. However consumer finance companies in central Europe generally note that their target market are "subprime" customers, who may not have easy access to bank credit.

Consumer Protection Laws and Institutions

The consumer finance sector is lightly regulated. In contrast to the detailed regulation and close supervision of the banks (and to a lesser degree, the other parts of the regulated financial sector), consumer finance companies have few laws or institutions that follow the consumer finance sector. The primary legislation for consumer finance companies lies with the Act on Consumer Credit, which focuses on the calculation of the APR.

No financial supervisory agency authorizes consumer finance companies. Upon incorporation the companies register their commercial activities with the business registry, but no separate authorization or licensing is required.

The industry association places a limited role in strengthening the quality of consumer protection and limited information is available to the public. In a sector in which not all consumer finance companies are considered to engage in entirely ethical practices, 11 of the

[9] As of March 28, 2007, Kešovka (Telervis plus) was offering loans of up to six months and SKK 50,000 at an annual rate of 227 percent per annum, with weekly payments. See http://openiazoch.zoznam.sk/produkty/hp/detail.asp?TID=HPTEL

largest companies created the association, AOSP, which has developed a code of ethics. However the Association maintains no public website and the ethics code is not easily available to the public. The Association publishes no annual report with summary financial and market information even for its 11 members. Indeed only two companies (Home Credit and Profireal) publish on the internet their annual reports and audited financial statements.

Sales & Distribution Practices

One major weakness of the Slovak consumer finance sector is the absence of adequate laws or regulations on the sales and distribution practices for consumer credit. Act No. 266/2005 Coll. On Consumer Protection in Distance Financial Services applies the EU Directive on Distance Selling places some restrictions on telephone marketing and doorstep selling, including a requirement for a cool-down period of at least seven days after the sale of a contract. The law should also prohibit abusive and deceptive sales practices as a first step to protecting financial consumers.

Another weakness is the consumers are not clearly advised of the terms and conditions of the credits that they assume. While Act on Advertising prohibits misleading advertising, no laws or regulations cover advertising for financial services and none specifies the format or presentation of key facts for consumer loans. Consumers should be advised not just of the APR but also the amount of monthly payments and any additional fees or charges, particularly if the consumer wishes to prepay the loan. A clear statement of the total charges applied to consumer loans would help consumer choose providers at reasonable interest rates.

Under the Act on Advertising, the Slovak Trade Inspection Office is responsible for supervision of advertising regarding financial services. However the STI lacks sufficient capability to review advertising regarding financial services.

Both revolving credit and cash loans are particularly subject to abusive sales practices. As noted in the Annual Report of Home Credit, both types of loans are often sold though "multi-level" marketing arrangements. As seen in other sectors, such as insurance and private pensions multi-level distribution systems require that customers join a "club" and are obliged to sell similar products to new clients of the company. Such distribution arrangements are considered to be very expensive and raise distribution costs for the sector.

Account Maintenance

For commercial credit companies, the key issues on account maintenance relate to debt collection practices. Little statistical data is available but anecdotal information and press reports indicate the some unfair practices are not unheard-of. Such practices include situations where lenders require that at the time of borrowing, customers sign blank forms transferring ownership of their houses or apartments to the borrower. Where contractual payments are not made on time, the lender can—and sometimes does—take ownership of the housing and require that the borrower vacate the property. In other situations, lender request that employers garnish the wages of a borrower, if contractual payments are not made on time. Under standard civil code procedures, such actions cannot be accomplished without a specific court order.

Steps should be taken to investigate such cases. For example, the Center for Legal Assistance or other non-government organizations should be funded to investigate cases of abusive debt collection practices and refer the cases to the authorities for prosecution. If a court determines that illegal action was taken, the non-government organizations should be encouraged to make the final decision—and the reasons for the court decision—available to the public. It may also be helpful for consumer protection organizations to conduct surveys of the public's views of the legal rights and available recourse mechanisms for disputes related to financial consumer disputes.

Privacy

For commercial credit companies, the sole privacy protection lies with the general Data Protection and Privacy Act. Thus the extensive personal privacy provisions that apply to banking activities under the Act on Banks are not applicable to the financial records of the commercial credit companies. The commercial credit companies also maintain a credit bureau for their customers but the consumer finance credit bureau is not linked to the credit bureau maintained under the supervision of the NBS.

Recourse Mechanisms

Customers of consumer finance companies have few forms of recourse in case of unfair treatment or breaches of contracts. Unlike bank customers, clients of consumer finance companies cannot submit complaints to a financial supervisory body. Furthermore the Slovak Trade Inspectorate has little authority—and less capability—to handle cases related to financial loans. As a result, consumers have no choice but to appeal to the civil courts in case of contracts violations.

Consumer Education & Financial Literacy

The weaknesses in consumer education and financial literacy seen in banking apply also to the commercial credit companies. No special programs are in place from the industry association (AOSP), the NBS, or individual consumer finance companies. The Center for Legal Assistance provides some education on a case-by-case basis but to date, has only investigated a handful of cases related to financial services. Newspapers also provide valuable information for the public but the stories are generally limited to those of cases of individual hardship. While the absence of consumer financial education affects all consumers, it is the low-income households that will be most vulnerable to unrealistic financial promises. In addition, the industry association for the commercial credit sector should provide extensive public information on the companies that are members of the association. The absence of a sufficiently active association undermines the quality of publicly available information on the sector.

Key Recommendations

The NBS should be responsible for authorizing all commercial credit companies. The absence of an effective authorizing body for commercial credit companies makes it difficult for

consumers to differentiate between legitimate consumer finance companies versus the non-bank entities that are no more than pyramid schemes. If the financial legislation were to require that all providers of financial services obtain a license from the NBS, then the NBS could issue public statements noting that certain companies operating in Slovakia are not properly licensed and consumers should not engage in financial services with those companies.

The NBS should provide review of market conduct rather than prudential supervision for commercial credit companies. Consumer finance companies do not accept deposits from the public and therefore should not be subject to prudential supervision requirements such as minimum capital levels and reserve requirements. However commercial credit companies should be required to file their audited financial statements with its supervisory body and make such financial reports available to the public, through the company's website or that of the industry association. Consumer credit companies should also be required to disclose the names and responsibilities of the management and supervising directors of the company, copies of the company's statutes and information regarding the controlling and significant ownership of the company.

Legislation and regulations on abusive practices should be strengthened. Consumer loans that are signed outside of the lender's offices should be subject to a mandatory 14-day cooling period to ensure that consumers are not placed under undue pressure at the time of loan signing. A key issue also relates to debt collection practices. The laws should prohibit harassing behavior by debt collectors and regulations should stipulate the permissible hours of contacting borrowers in their home.

Commercial credit companies should be required to provide information in a format that allows consumers to compare the terms and conditions of credit offers. The information should include not just interest rates and repayment dates, but also monthly repayment amounts, any fees that would be payable for prepayments and the interest charges (and their method of calculation) for overdue payments. The companies should be obliged to disclose the information in a easily understood format with examples to demonstrate the calculations. Some countries also specify the details such as font size to ensure that information is not lost in the "fine print."

The NBS should play a key role in alerting consumers to illegal practices. Through its website, the NBS should provide a prominent webpage for consumers where the NBS can issue official notices that certain firms operating in Slovakia (or advertising in Slovakia) are not authorized by the NBS. The NBS might also provide case studies of types of marketing or collection practices that are not permitted by law.

Other consumer education institutions should play a strong role. Non-government organization or specialized institutions should provide education in financial literacy, including at the secondary and university levels. The institutions should also provide case studies of practices that are not permitted by law. The institutions may wish to work with the financial consumer protection agencies of the European Union to develop programs that can reach all levels of society. For the minority language communities and particularly for the Roma, the institutions may wish to develop programs in minority languages.

Securities

Historically, consumer protection in the securities markets has developed somewhat differently than in banking. Bank customers in most countries enjoy deposit protection and strong prudential supervision of banks – factors that create a solid safety net for the 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.

Consumer Protection Laws and Institutions

The securities market is regulated by the Act on Securities and Investment Services No. 566/2001 Coll., as amended. The Securities Act provides for the procedures for the registration of "stock brokerage firms" who are joint stock companies authorized to engage in a wide range of brokerage and investment activity and "investment brokers" who can solicit and transmit orders, but cannot handle funds. Investment advisors must be registered as stock brokerage firms. Some brokers and tied intermediaries claim that there is a loophole in the law that allows them to provide "financial advice." Whether this creates a valid exemption would be up for interpretation by a court. However, at the least, if the "financial advice" includes advice as to investments, they would need to be registered as stock brokerage firms. The Ministry of Finance is proposing legislation to eliminate this ambiguity. The Securities Act also provides for the purchase or sale of a security in a private transaction through a commission agent. Although the Securities Act covers the purchase or sale of financial derivatives, it does not cover the purchase or sale of commodity options or futures. The commodities market has become very active over the last several years, particularly in derivatives contracts, but there is not regulation of their offer or sale in Slovakia.

The investment fund sector is regulated by a specific law, the Act on Collective Investments No. 594/2003 Coll., as amended. The Collective Investment Act is compliant with the UCITS Directive. Article 4 of the Collective Investment Act provides that the only collective investments allowed in Slovakia are mutual funds which are non-juridical in nature and which are managed by an investment management company. The assets of a mutual fund are held by a depositary that is separate from the asset management company and the assets are segregated from the assets of the depositary and management company. The Collective Investment Act also allows for the establishment of non-UCITS funds, such as closed-end funds, and "special funds" that allow for higher risk and non-liquid assets. Real-estate special funds are specifically provided for in the Act.

The supervision of the financial markets is regulated by the Act on Supervision of the Financial Market No. 747/2004 Coll., as amended. As a result of the Financial Market Supervision Act, the responsibilities of the Securities Authority were transferred to the National Bank of Slovakia (NBS). Consequently, the regulation and supervision of the securities markets is currently conducted by NBS.

The Act on Consumer Protection in the Distance Financial Services No. 266/2005 Coll., regulates the provision of financial services by mail, telephone and electronic communications. The Distance Financial Service Act implements the relevant EU Directive on

distance selling of financial services. The Act covers all areas of the financial market including securities and collective investments. It does not appear to cover commodities derivatives, although it probably covers all instruments referred to as financial instruments in the Securities Act which would include financial derivatives.

The Act on the Stock Exchange No. 429/2002 Coll., regulates the establishment and operation of the Bratislava Stock Exchange (BSE). The BSE's internal operations are based on its rules of trading and membership. It has an arbitration court for the handling of disputes related to activity on the exchange. The BSE is also responsible for supervision of entities which it permits to carry on activity on the exchange, such as listed companies and intermediaries.[10]

The Arbitration Act provides for the possibility of arbitration if the parties to a dispute agree to be bound by arbitration.

There is very little secondary legislation, i.e. implementing regulations, for the Securities Act. As a result, the guidance provided by detailed regulations for conduct by intermediaries is lacking. For example, there are no detailed regulations on permissible advertising practices in the securities sector other than the general requirement not to make misleading statements. This is also a problem for distance sales to consumers since there are no regulations regarding high pressure sales practices. Nor do regulations provide for the permissible times to call and the obligation to obtain the consent of a consumer to a telephone "pitch," much less the creation of a do-not-call list so that consumers can formally forbid distance marketers from contacting them. The result of the lack of regulations is that much compliance is done on a non-uniform, individual basis by each intermediary.

The law does not require people who deal with potential and actual customers at banks to be trained, certified and licensed. The current attitude is that the licensed entity - the brokerage firm or investment management company - is responsible for training sales people and is liable for their conduct. However, the best way to deal with complaints is to avoid them by providing informed, objective advice at the beginning of the contract or investment in order to avoid misunderstandings or false expectations for returns on the investments. Due to the expense that investors face in pursuing claims, relying on intermediary liability to provide an incentive for good sales practices is not enough. Sales people should be formally trained through a certified system and licensed. In addition, the SNB should issue a regulation regarding the proficiency exam for brokers with intermediaries, as required under Article 63 (10) and (11).

The legal framework does not adequately provide for the enforcement of registration provisions against unlicensed entities who engage in activities that require a license. There has been a considerable problem with unregulated entities in the financial sector of Slovakia over the last several years. There appears to be a problem in the securities sector with financial advisors who are giving advice without being registered as stock brokerage firms, although there is no way to quantify this at the present time. Some entities are asserting a loophole in the law allowing them to give "financial advice" Nonetheless at the least, they also appear to be giving advice on "investments" which would required registration. The Ministry of Finance is taking steps to close this asserted loophole in the law. The current legal framework gives the NBS some authority, notably to prohibit or suspend the publication of promotional materials that are

[10] Also the EU's Directive on Markets in Financial Instruments (MiFID) allows for the creation of multilateral trading facilities (MTF) as a new regulated market. MTFs are expected to be set up in all the new member states.

incorrect, untrue or misleading. However this is not sufficient. The law should authorize the NBS to take such actins as freezing the assets of, or enjoining violations of the law by, unlicensed entities. The governmental action that is currently taken is a criminal investigation and prosecution. However, these procedures are slow and have a higher evidentiary level than civil cases. The NBS should be given the authority to stop the activity of these unlicensed entities operating in the securities markets.

Institutions

The BSE is the only securities sector SRO in Slovakia. It has extensive rule making authority regarding trading on the exchange; the admission of securities to the exchange and the admission of members to act on the exchange. It conducts market surveillance of trading and has an arbitration court for the settlement of disputes related to the trading.

The Slovak Association of Securities Dealers and the Slovak Association of Asset Management Companies are the two industry associations in Slovakia. The main purpose of these organizations is to advocate the interests of their members as participants in the capital markets and to raise the standards of their members for the purpose of increasing the credibility of the capital markets in Slovakia. They have arbitration bodies for handling disputes among the members of the associations and disciplinary actions for violations of the associations' codes of conduct, but they do not adjudicate customer complaints against members of the associations.

Disclosure and Sales Practices

The law does not contain sufficiently clear and comprehensive rules for disclosure and sales practices. Article 88 of the Collective Investment Act provides that management companies should not give false or misleading information to clients. However, the definition of the meaning of false or misleading is insufficiently clear.

Cross-selling of financial products can create confusion for consumers in the marketing and purchase of financial products. Numerous financial institutions have multiple licenses to sell different financial products. Each of these products, such as savings accounts, insurance, pensions, mutual funds, and individual stocks, have different characteristics of return, risk, and ownership. Different investors, due to their personal situations, such as age, health, investment goals and willingness to take risks, will have different suitability for these financial instruments. Determining which investments are appropriate for an investor requires full and clear disclosure of the characteristics of the investment and expert advice as to the benefits and risks with each investment. However, it appears that the financial institutions in "cross selling" these financial instruments are doing so without adequately explaining the characteristics and differences between them. This seems to be partly the result of the lack of training on the part of the staff offering the instruments and the fact that the market based instruments with high risk are being sold in an environment usually associated with low risk. This "cross-selling" has resulted in a great deal of problems in other jurisdictions due to the lack of the training of sales people and customer education. The sales people should be trained and licensed and the sales of one instrument should be clearly segregated form the sales of another, either physically or through the use of different sales people.

Customer Account Handling and Maintenance

Although present in the 2007 Securities Act, the Collective Investment Act does not have an explicit requirement for the immediate delivery of a confirmation of a transaction and the details of the transaction. The law should also provide the details as to the information that must be in the document. Article 40a (8) of the Collective Investment Act requires that the management company give a customer a confirmation statement "forthwith," although no time period is stated, this is commonly understood to mean 3 days. In addition, there do not appear to be provisions in the law setting forth a procedure to allow customers to challenge their confirmation statements. The only major requirement appears to be in Collective Investment Act in Article 95 which states that an asset manager must publish the NAV information for a mutual fund in newspapers on a periodic basis which differs depending on the type of fund.

There is no requirement for periodic statements for customers. Although investment firms are obliged to provide a client with information regarding his/her financial instruments or funds at least once a year, neither the Securities Act nor the Collective Investment Act appears to contain a requirement that stock brokerage firms give customer/investors periodic statements (usually monthly or quarterly) for their accounts. This can be done electronically in order to lower the costs and, when there is no activity in the account, it can be done at extended intervals such as quarterly or semi-annually. Investors should have a record of their account on a regular basis and this information should be provided automatically without request. One exception is in the case of clients whose portfolio is being managed by an investment firm. Article 73 of the Amended Securities Act (No. 209/2007) stipulate that investment firms must provide a client with periodic statements or, at the clients request, they can be made after each transaction.

There is no requirement in the law for the prompt transfer of funds to customers or another company upon customer request. This has proven to be a problem in other jurisdictions where some brokers and management companies have attempted to increase their income by "playing the float" i.e. investing customer assets and receiving income during the delay in paying the customer. The brokers and management companies should be required to immediately pay the customers any cash balances in their accounts and proceeds from sales when the payment is received. In addition, accounts should be transferred from one stock brokerage firm to another within a reasonable period of time depending on the depository and share registry systems in effect in the country.

Privacy and Data Protection

Article 134 of the Securities Act and Article 98 of the Collective Investment Act provide for the confidentiality of customer information. Additional articles cover the same duty for the Central Depository, the Guarantee Fund and forced administrators of stock brokerage firms. Article 134(3) of the Securities Act and Article 98(8) of the Collective Investment Act provide for circumstances in which confidential information can be disclosed, for the most part to governmental organizations and to correct errors in data processing of transactions. The only provision in the securities laws that deals with the transfer of information is Article 98(8) (f) which grants an exception during the transfer of management activity from one mutual fund to the next.

Stock brokerage firms and management companies are also subject to the requirements of the Act on Protection of Personal Data. This law is in addition to the provisions in the

Securities Act and Collective Investment Act and does not conflict with them, however it is much more comprehensive in dealing with data protection issues. It is administered by the Office of Personal Data Protection of the Slovak Republic. The Act on Protection of Personal Data provides that entities that collect and process personal data must keep the data in a manner that protects the consumer information. The Act on Data Protection requires client notification and provides for an "opt-out" provision to prevent the transfer of data for marketing purposes and to non-EU countries for processing. Third parties who receive the information are also covered by the rules. Stock brokerage firms and management companies have sent the Office the status and characteristics of their IT systems to protect such data and the Office has conducted inspections from time to time as necessary.

The Act on Protection of Personal Data can impose fines of up to SKK 10,000,000, depending on the violation. There are no specific penalties attached to violations of the confidentiality provisions in the Securities Act or Collective Investment Act. The general sanctions articles in both of them cover the violation; Article 144 of the Securities Act and Article 106 of the Collective Investment Act provide for sanctions for violations of the Act, including breaches of the privacy provisions, which includes orders for remedial action, fines and suspensions of licenses.

Dispute Resolution Mechanisms

One of the surprising things about the securities market in Slovakia is the current lack of complaints by customers. All institutions reported that there were very few complaints over the last several years regarding securities transactions. As one person interviewed by the mission explained, the complaints seemed to come in waves. First there were the complaints over the privatization program and then later over pyramid schemes due to unlicensed "deposit-takers." However after the reforms in 2002, the complaints seem to have subsided. It is very unusual to have virtually no complaints in a financial system. Customers often have very little faith that they can get a fair hearing in a dispute with a financial institution. The absence of complaints may be related to the lack of a customer-friendly complaint system.

The securities laws do not obligate all licensed entities to have an internal system for handling customer complaints. Management Companies are obligated under Article 3(2) of the Collective Investment Act to handle customer complaints but the specifics of such a system are not set out in the law. The Securities Act does not place any duty on securities brokerage firms and investment brokers to have an internal system for customer complaints although many do as a matter of good practice.

Consumer/Investors can sue stock brokerage firms and investment brokers in civil court to resolve their disputes with them under Article 136(1) of the Securities Act. Similarly, Article 99(3) of the Collective Investment Act allows customers to sue management companies in civil court to settle their investment disputes. However, the costs of such litigation are very high and not a viable alternative for complaints by smaller, retail investor.

The Act on Arbitration, No. 244/2002 Coll. provides for the possibility of arbitration if the parties agreed to be bound by the arbitration agreement. Due to the costs of hiring an attorney, paying for the arbiters' fees and the costs for the development of evidence, arbitration also does not appear to be practically available to a small retail investor. In any event, arbitration

clauses do not appear to be included in brokerage contracts or investor/customer contracts with management companies.

The primary arbitration system for the securities market is part of the Bratislava Stock Exchange. Its jurisdiction is over disputes regarding trading on the exchange. As a result, it does not cover all types of consumer suits between a customer and an investment management company or brokerage. It has not been used in several years, apparently due to the low level of consumer involvement in stock trading and the high cost of arbitration.

There is no ombudsman system in Slovakia for handling securities complaints. The low-cost characteristic of an ombudsman - most disputes are resolved prior to disposition and the ombudsman's fees are minimal - has made it a very attractive alternative to other forms of dispute resolution for smaller retail customers in many developed markets. An ombudsman could provide a useful and consumer friendly means of consumer protection in Slovakia.

Guarantee and Compensation Funds

The Investment Guarantee Fund is established by Article 80 of the Securities Act. It was created in 2002 as part of the general overall of the legal and institutional infrastructure of the securities markets. Importantly, it was established after the changes to the law relating to the regimenting of the stock brokerage firms which reduced the number of firms from 120 to 40, thus significantly increasing the quality of the members of the guarantee fund.

All stock brokerage firms licensed by the NBS are obligated to be members of the Guarantee Fund. They must make an initial deposit, annual deposits and extraordinary deposits to capitalize the fund. Since its inception, there have been no claims on the fund and it estimates that it can cover the liabilities of 77 percent of all members from its own resources without taking out a loan.

The Guarantee Fund has three bodies: the Council of the Fund, the Presidium and the Supervisory Board. The Council consists of 9 members; Two of the members of the Council of the Fund shall be representatives of the Ministry of Finance, appointed and dismissed from among the employees of the Ministry of Finance by the Minister of Finance. Three of the members of the Council of the Fund shall be representatives of the National Bank of Slovakia, appointed and dismissed by the Governor of the National Bank of Slovakia. The remaining four members of the Council of the Fund shall be appointed and dismissed by representatives of stock brokerage firms subject to the obligation pursuant to Article 83 at a meeting of stock brokerage firms. The Presidium is the statutory body of the Guarantee Fund and acts legally on behalf of Fund. The Supervisory Board has seven members, three from the stock brokerage firms - two from the Ministry of Finance and two from the NBS. The Council appoints the members of the Presidium and Supervisory Board, determines the amount of compensation, and approves the budget and other major commitments of the Fund, such as the payment of compensation from the fund and rules for remuneration of employees.

Consumer Education and Financial Literacy

No government agency or NGO has responsibility for consumer education in the securities sector. There are no formal programs for education through the mass media or in smaller

seminars to community groups. The NBS staff has indicated that they might set up a television program along the lines of the one that was developed in the Czech Republic.

Good Practices: Securities Sector

Securities sector is developing rapidly in most emerging markets, often pacing out consumer education in the complexities of the financial instruments offered by the sector. Adequate and reliable disclosure to investors, investors' ability to seek recourse, and improve financial literacy are particularly important as investors are exposed to more complex market risks.

SECTION A	**INVESTOR/CONSUMER PROTECTION INSTITUTIONS**
Good Practice A.1	**The legal system should recognize and provide for clear rules on investor/consumer protection in the securities markets and there must be adequate institutional arrangements for implementation and enforcement of investor/consumer protection rules.** **a. There should be specific legal provisions in the law which create an effective regime for the protection of investors in securities.** **b. There should be a general investor/consumer agency or specialized agency, responsible for data collection and analysis (including complaints, disputes and inquiries)and implementing, overseeing, enforcing investor/consumer protection.** **c. The legal system should provide for a role for the private sector, including voluntary investor/consumer protection organizations and self-regulatory organizations.**
Description	***Legal Regime*** The legal regime for consumer protection in the securities sector is fairly well developed after a series of new laws were passed in the early 2000's to improve the legal environment for the securities market. The securities market is primarily regulated by the Act on Securities and Investment Services (Securities Act), No. 566/2001 Coll., as amended. The Securities Act provides for the procedures for the registration of "stock brokerage firms" who are joint stock companies authorized to engage in a wide range of brokerage and investment activity and Investment Brokers who can solicit and transmit orders, but cannot handle funds. Investment advisors must be registered as stock brokerage firms. Although the Act covers the purchase or sale of financial derivatives, it does not cover the purchase or sale of commodity options or futures. The commodities market has become very active over the last several years worldwide, particularly in the area of derivatives contracts, but there is no regulation of their offer or sale in Slovakia. The investment fund sector is regulated by a specific law, the Act Collective Investments, (Collective Investment Act) No. 594/2003 Coll., as amended. The Collective Investment Act is compliant with the UCITS Directive. The Collective Investment Act also allows for the establishment of non-UCITS funds, such as closed-end funds, and "special funds" that allow for higher risk and non-liquid assets. Real-estate special funds are specifically provided for. The Act on Consumer Protection in the Distance Financial Services, No. 266/2005 Coll., (Distant Financial Services Act) regulates the provision of financial services by mail, telephone and electronic communications. The Distance Financial Service Act implements the relevant EU Directive on distance selling of financial services. There is no secondary legislation, i.e. implementing regulations, in the securities sector. As a result, the guidance provided by detailed regulations for conduct by intermediaries is lacking. For example, there are no detailed regulations on permissible advertising practices in the securities sector other than general requirement not to make misleading statements. This is also a problem for distance sales to consumers since there are no regulations regarding high pressure sales practices, requirements to call during the

	business day or the obligation to obtain the consent of a consumer to a telephone "pitch," much less the creation of a do-not-call list so that consumers can formally prohibit distance marketers from contacting them. The result of the lack of regulations is that much compliance is done on a non-uniform, individual basis by each intermediary. ***Consumer Agency*** The supervision of the financial markets is regulated by the Act on Supervision of the Financial Market, (Financial Market Supervision Act) No. 747/2004 Coll., as amended. As a result of the Financial Market Supervision Act, the responsibilities of the Securities Authority were transferred to the National Bank of Slovakia (NBS). Consequently, the regulation and supervision of the securities markets is currently conducted by the NBS which is responsible for consumer protection in the securities sector. Importantly, the legal framework does not adequately provide for the enforcement by NBS of registration provisions against unlicensed entities who engage in activities that require a license. There has been a considerable problem with unregulated entities in the financial sector over the last several years. There appears to be a problem in the securities sector with financial advisors who are giving advice without being registered as stock brokerage firms, although there is no way to quantify this at the present time. Nonetheless, the current legal framework does not allow NBS, as the securities regulator, to take action to freeze assets of, or enjoin violations of the law by, unlicensed entities. This governmental action that is currently taken is a criminal investigation and prosecution. However, these procedures are slow and have a higher evidentiary level than civil cases. The NBS should be given the authority to stop the activity of these unlicensed entities in the securities sector. The NBS has created a consumer protection unit that will be dedicated to consumer affairs. However, it cannot be evaluated since it was created in the beginning of February, 2007 and is just beginning to be formed. ***Private Sector*** The Act on the Stock Exchange (Stock Exchange Act), No. 429/2002 Coll., regulates the establishment and operation of the Bratislava Stock Exchange (BSE). The BSE is the one SRO in Slovakia. It has extensive rule making authority regarding trading on the exchange, the admission of securities to the exchange and the admission of members to act on the exchange. It conducts market surveillance of trading and has an arbitration court for the settlement of disputes related to trading on the exchange. The Act on Arbitration, No. 244/2002 Coll. provides for the possibility of arbitration if the parties to a dispute agree to be bound by arbitration, although it is apparently not used for securities disputes. The Slovak Association of Securities Dealers and the Slovak Association of Management Companies are the two industry associations in Slovakia. The main purpose of these organizations is to advocate the interests of their members as participants in the capital markets and to raise the standards of their members to increase the credibility of the capital markets in Slovakia. They have arbitration bodies for handling disputes inside the associations, but they do not deal with customer complaints.
Recommendation	Develop and issue detailed regulations in the securities sector, particularly in the area of consumer protection. Require certified training of sales people, and later, after a cadre of experienced persons is developed, require the licensing of sales people. Amend the Securities Act to include commodities derivatives

	The NBS should be given the authority to stop the activity of unlicensed entities in the securities sector. NBS staff should be trained on the procedures for stopping unlicensed activity. Although Act No. 266/2005 Coll. on the Consumer protection in connection with distance financial services has been enacted, distance marketing regulations under that Act should be issued that regulate high pressure sales tactics.
Good Practice A.2	***Code of Conduct for Intermediaries and Collective Investment Undertakings (CIUs)*** **a. Intermediaries and CIUs ought to have a voluntary Code of Conduct and comply with the Code.** **b. Intermediaries and CIUs should, as far as possible, endeavor to reach and observe commonality in terminology regarding the description of fees, services and products, and to use such terminology when publishing or displaying details of such charges.** **c. Intermediaries and CIUs must publicize the Code of Conduct to the general public through appropriate means.** **d. Appropriate mechanism ought to be in place to impose sanctions due to a breach of the Code of Conduct.**
Description	The Slovak Association of Securities Dealers and the Slovak Association of Management Companies both have codes of conduct for their members. These Codes contain provisions that govern the relationship between the members of the association and their clients. The arbitration courts in the associations adjudicate whether a member has violated these rules or the Code of Conduct, but apparently doesn't attempt to adjudicate a client's claim against a member of the association. In any event, neither of these institutions have been used in last several years and have only been used in a very few cases in their history. The membership rules of the BSE also have provisions that act as a de facto code of conduct regarding to the relationship that the members have with their clients. It has also been dormant in activity.
Recommendation	The associations have, on a formal basis, an adequate code of conduct. It might be helpful to include in the procedures for enforcing the code before the arbitration court a provision that allows for the adjudication of customer complaints and then to publicize the existence of the provisions and the arbitration court.
Good Practice A.3	***Other Institutional arrangements*** **a. The judicial system must provide credibility to the enforcement of the rules on investor/consumer protection.** **b. The media and investor/consumer associations ought to play an active role in promoting investor/consumer protection.**
Description	***Judicial System*** Slovakia has a civil law legal system. By most reports, the system, like many, is slow to take a case to final resolution, resulting in high legal expenses and delays in justice. In addition, most judges do not have experience in financial matters. Consequently, litigation over smaller financial matters, such as retail securities disputes, is not cost effective in the civil courts. In general the criminal court system has the same problem of the lack of experience in financial matters by judges and prosecutors and overcrowded court dockets. However, special criminal courts have been set up to handle high profile cases such as corruption, money laundering and large financial cases. This court and the prosecutors attached to hit have become an excellent venue for handling large securities fraud cases, although small customer complaint cases would generally not meet the minimum jurisdictional requirements of the court. ***Media and Consumer Organizations***

	The media do not appear to be active in promoting investor/consumer protection other than reporting on such matters when they become news items.
Recommendation	Civil judges should receive additional training in financial cases in order to be able to handle such cases with as much speed as possible. The media should receive additional training in financial matters in order to enable them to explain these complex subjects more clearly. In addition, a regular column on financial matters for consumers would be very useful for the general readership who are generally retail investor/consumers.
SECTION B	**DISCLOSURE & SALES PRACTICES**
Good Practice B.1	**There should be disclosure principles cover an investor/consumer's relationship with an intermediary or CUI in all three stages of such relationships: pre-sale, point of sale, and post sale. The information available and provided to an investor/consumer needs to inform the investor/consumer of the choice of accounts, products and services; the characteristics of each type of account, service or product; and the risks and consequences of purchasing each type of account, service or product.**
Description	Numerous financial institutions have multiple licenses to sell different financial products. Each of these products, such as savings accounts, insurance, pensions, mutual funds, individual stocks, have different characteristics of return, risk, and ownership. Different investors, due to their personal situations, such as age, health, investment goals and willingness to take risks, will have different suitability for these financial instruments. Determining which investments are appropriate for the investor requires full and clear disclosure of the characteristics of the investment and expert advice as to the benefits and risks with each investment. However, it appears that the financial institutions in "cross selling" these financial instruments are doing so without adequately explaining the characteristics and differences between them. This seems to be partly the result of the lack of training on the part of the staff offering the instruments and the fact that the market based instruments with high risk are being sold in an environment usually associated with low risk. This "cross-selling" has resulted in a great deal of problems in other jurisdictions due to the lack of the training of sales people and customer education.
Recommendation	A regulation should be issued requiring separate disclosures for each type of financial product. The sales people for securities and other market-based products should be trained and licensed and the sales of one instrument should be clearly segregated form the sales of another, either physically or through the use of different sales people. Commission agents should be placed under the jurisdiction of the NBS.
Good Practice B.2	***Formal Disclosure*** **a. There must be clear rules on solicitation of securities, CIUs and related services.** **b. Intermediaries and CIUs should ensure their advertising and sales materials and procedures do not mislead the customers.** **c. An intermediary or CIU 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 before the point of opening of the account, disclosing the key factors of the product or services.**
Description	Article 88 of the Collective Investment Act and Article 73 of the Securities Act both provide that management companies and securities brokers should not give false or

	misleading information to clients. However, there is no explanation of the meaning of false or misleading, nor is there a description of the extent or contents of disclosure that is necessary. Finally, there are no provisions related to the content of advertising materials or their clarity and ease of understanding. The rules for distance selling are more detailed that those in the Securities and Collective Investment Acts, but deal more with the process of solicitation rather than the content of disclosure. The prospectus and simplified prospectus of a mutual fund act as a key-facts document regarding the purchase of the fund and must be given to the client at the time of sale, however, there do not seem to be any requirements in the Securities Act or Collective Investment Act as to the form and content of the account opening documents of a stock brokerage firm, other than general requirements, such as for the "know your customer rule".
Recommendation	Regulations should be issued to standardize the account opening disclosures and documents for brokerage accounts and mutual funds.
Good Practice B.3	***Special Disclosures*** **a. Intermediaries and CIUs must disclose information relating to the accounts, including methods of computation, any other charges related to the product, service charges, restrictions on inter-account transfers (any foreign currency exposure risk), fraud protection over accounts, procedures for closing accounts, and the fees charged on closure of accounts.** **b. Marketing personnel and officers selling and approving transactions should have sufficient qualifications, depending on the complexities of the products they sell.**
Description	There is a general requirement to give customers of a stock brokerage firm all relevant information to an investment, but there are no provisions regarding disclosure of the terms and conditions of the account that the client is opening and related fees, service charges and the like. On the other hand, Article 90(7) of the Collective Investment Act requires that easily understandable information about the maximum amount of management fees should be set forth in the prospectus and simplified prospectus. The law does not require people who deal with potential and actual customers to be trained, certified and licensed. The current policy is that the licensed entity - the brokerage firm or investment management company - is responsible for training sales people and is liable for their conduct. However, the best way to deal with complaints is to avoid them by providing informed, objective advice at the beginning of the contract or investment in order to avoid misunderstanding or false expectations for the performance of the investments. Due to the expense that investors face in pursuing claims, relying on intermediary liability to provide an incentive for good sales practices is not enough. Sales people should be formally trained through a certified system and licensed.
Recommendation	Regulations should be issued setting forth the required disclosure relating to the fees, charges and other administrative matters related to a securities account. As mentioned above salespeople should be trained and licensed.
Good Practice B.4	***Roles of Third Parties*** **a. The Regulatory Authority ought to publish annual public reports on the development, health and strength of the securities industry either as a special report or as part of its disclosure and accountability requirement under the law.** **b. The intermediaries and CIUs should be required to provide financial information about their activity to enable the general public to form an opinion as to their financial viability.**
Description	The NBS publishes an annual report setting forth the condition of the sectors that it

	regulates, among other things. Mutual funds are required to publicly issue an annual report. However, under Article 77 of the Securities Act, stock brokerage firms are obligated to file extensive annual and mid-year reports to the NBS and Ministry of Finance, but there does not appear to be any obligation to make the report public.
Recommendation	The annual and mid-year reports should be made public and provided to customers and potential customers.
Good Practice B.4	***Sales Practices*** **a. Intermediaries and sales persons should not use high pressure sales tactics.** **b. Intermediaries and sales persons should not engage in misrepresentations and half truths as to products being sold.** **c. Intermediaries and sales people should fully disclose the risks of investing in the financial product being sold.** **d. Intermediaries and sales people should not discount or disparage warnings or cautionary statements in written sales literature.** **e. Intermediaries and sales people should not recommend securities to customer/investors which are unsuitable for them, given their experience, wealth and investment goals.**
Description	Article 88 of the Collective Investment Act and Article 73 of the Securities Act both provide that management companies and securities brokers should not give false or misleading information to clients; should fully disclose the risks; and should only make suitable recommendations to clients. However, there is no definition of the meaning of false or misleading, nor is there any discussion of high pressure sales practices in those Acts or the Distance Marketing Act. Finally, the Acts contain no explicit prohibition against sales persons disparaging written cautionary statements or warnings provided by the stock brokerage firm or management company.
Recommendation	Regulations for sales literature and practices should set out in detail acceptable sales practices, both oral and written.
SECTION C	**CUSTOMER ACCOUNT HANDLING AND MAINTENANCE**
Good Practice C.1	**a. Funds of customer/investors should be segregated from the funds of all other market participants.** **b. Timely delivery of periodic securities and collective investment account statements and confirmations of transactions pertaining to the accounts should be made.** **c. An investor/customer should receive streamlined statements for each account at least quarterly that provides the complete details of account activity in an easy-to-read format.** **d. Investor/customers ought to have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period.** **e. When investor/customers sign up for paperless statements, intermediaries and CIUs must ensure that the investor/consumer is able to read and understand such online statements.** **f. When a customer/investor requests the payment of funds in his or her account or the transfer of funds to another intermediary or mutual fund, the payment or transfer should be made promptly.**
Description	Both the Securities Act in Article 73(i) and the Collective Investments Act in Article 84 require that assets of the customer/investor and mutual fund be kept in a separate account from that of the stock brokerage firm, asset manager or depositary.

	There is no requirement for monthly or quarterly securities statements to be sent to customer/investors. The Securities Act does not have a detailed requirement for the immediate delivery of a confirmation of a transaction, including details as to the information that must be in the document. Although Article 73(1) (c) requires a broker to report without undue delay any transactions concluded on his behalf, this does not require a written confirmation of the transaction, nor does it specify the information that must be in the confirmation. When the new provisions for nominee accounts are put into effect, customers will no longer have accounts at the Central Depository, but will have accounts with the stock brokerage firm. Since the brokerage will be creating the document that is evidence of ownership, it is critical that it provide a confirmation of every transaction which can be used by the customer/investor as the evidence of the event and ownership in the case of a purchase or the right to payment in the case of a sale. Some firms may do this informally, but it should be required by law. The Collective Investment Act in Article 95 requires the asset manager to publish the NAV information in newspapers on a periodic basis which varies depending on the type of fund. Article 40a(8) requires that the management company give a customer a confirmation statement "forthwith", but no time period is stated, although this is generally assumed to be three days. There does not appear to be a requirement to give customer/investors periodic statements (monthly or quarterly) of their accounts. There do not appear to be provisions in either law setting forth a procedure to allow customers to challenge their confirmation statements or for the prompt transfer of funds to the customers or another company upon customer request.
Recommendation	Regulations should be issued requiring that stock broker firms and management companies provide customer/investors periodic account statements; setting forth the minimal contents of confirmation statements; and providing procedures for a customer/investor to contest information in the statements. In addition, a regulation should be issued requiring the prompt payment or transfer of customer assets and sanctions should be available for the failure to do so.
SECTION D	**PRIVACY & DATA PROTECTION**
Good Practice D.1	**Customer/investors of an intermediary or collective investment have a right to expect that their financial activities will have privacy from private and unwarranted private and governmental scrutiny. The law should require intermediaries and CIUs 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.**
Description	Article 134 of the Securities Act and Article 98 of the Collective Investment Act provide for the confidentiality of customer information. Additional articles cover the same duty for the Central Depository, the Guarantee Fund and forced administrators of stock brokerage firms. Stock brokerage firms and management companies are also subject to the requirements of the Act on Protection of Personal Data, No. 428/2002 Coll. This law is in addition to the provisions in the securities laws and does not conflict with them, but is much more comprehensive in dealing with data protection issues. It is administered by the Office of Personal Data Protection of the Slovak Republic. The law provides that entities that collect and process personal data must keep the data in a manner that protects the consumer information.
Recommendation	No recommendations are presented.
Good Practice D.2	***Sharing customer information*** **a. Intermediaries and CIUs must inform investor/consumers of third**

	party dealings regarding which they must share information regarding the investor/consumers account, such as legal enquiries by a securities regulator or enquiries of a credit bureau. **b. Intermediaries and CIUs should explain how they use and share investor/customers' personal information and intermediaries and CIUs must be committed not to sell or share account or personal information to outside companies that are not affiliated with them, for the purpose of telemarketing or direct mail marketing.** **c. The law ought to allow an investor/customer to stop or "opt out" of certain information sharing and the intermediaries and CIUs should inform the customers of their option.** **d. The law should prohibit the disclosure of investor/customer information by third parties.**
Description	The only provision in the securities laws that deals with the transfer of information is Article 98(8) (f) which grants an exception to the transfer of management activity from one mutual fund to the next. The Act on Data Protection requires client notification and provides for an "opt-out" provision to prevent the transfer of data for marketing purposes and to non-EU countries for processing. Third parties who receive the information are also covered by the rules. Stock brokerage firms and management companies have sent the Office the status and characteristics of their IT systems to protect such data. The Office has conducted inspections from time to time as necessary.
Recommendation	No recommendations are presented.
Good Practice D.3	***Permitted Disclosures*** **a. The law should state specific procedures and exceptions concerning the release of customer financial records to government authorities.** **b. The law should provide for penalties for breach of investor/customer confidentiality.**
Description	Article 134(3) of the Securities Act and Article 98(8) of the Collective Investment Act provide for circumstances in which confidential information can be disclosed, for the most part to governmental organizations and to correct errors in data processing of transactions. There are no specific penalties attached to violations of the confidentiality provisions in the Securities Act or Collective Investment Act. The general sanctions articles cover both of them. Article 144 of the Securities Act and Article 106 of the Collective Investment Act provide for sanctions for violations of the Act, including breaches of the privacy provisions, which includes orders for remedial action, fines and suspensions of licenses. The Act on Protection of Personal Data can impose fines of up to SKK 10,000,000, depending on the violation.
Recommendation	No recommendations are presented.
SECTION E	**DISPUTE RESOLUTION MECHANISMS**
Good Practice E.1	**There must be independent dispute resolution services for resolving disputes that investor/customers have with their intermediaries and CIUs.** ***Unfair Practice and Deceptive Acts Defined*** **a. There must be clear legal provision that defines unfair or deceptive**

	acts or practices of intermediaries and CIUs in connection with the offer and sale of securities and mutual funds and other financial services to the investor/consumers. **b. There should be a legal provision that provides for investor/consumer complaint procedures, structures and the duration within which complaints should be made and resolved.**
Description	Article 88 of the Collective Investment Act and Article 73 of the Securities Act both provide that management companies and securities brokers should not give false or misleading information to clients. However, there is no definition of the meaning of false or misleading, nor is there any details regarding the extent of disclosure necessary. Consumer/Investors can sue stock brokerage firms and investment brokers to resolve their disputes under Article 136(1) of the Securities Act. Similarly, Article 99(3) of the Collective Investment Act allows customers to sue management companies in civil courts to settle their investment disputes. However, the costs of such litigation are very high and not a viable alternative for complaints by smaller, retail investor.
Recommendation	Regulations clarifying and implementing the prohibition against false and misleading information should be issued.
Good Practice E. 2	***Internal Dispute Settlement*** **a. An internal avenue for claim and dispute resolution practices within an intermediary or CIU should required by the supervisory agency.** **b. Intermediaries and CIUs should provide designated employees available to investor/consumers for inquiries and complaints.** **c. Intermediaries and CIUs should inform their customers of the internal procedures on dispute resolution.** **d. The regulator or supervisor must provide oversight on whether intermediaries and CIUs comply with their internal procedures on investor/consumer protection rules.**
Description	The securities laws do not obligate all licensed entities to have an internal system for handling customer complaints. Management Companies are obligated under Article 3(2) of the Collective Investment Act to handle customer complaints but the specifics of such a system are not set out in the law. However, securities brokerage firms and investment brokers do not have the same responsibility. Due to the low level of reported complaints this does not appear to be a high priority item in the regulatory system.
Recommendation	Internal complaint resolution systems should be more formalized and communicated to clients.
Good Practice E.2	***Formal Claims Dispute Mechanisms*** **a. A system should be in place that allows investor/consumers to seek third party recourse in the event they cannot resolve an issue with their intermediary or CIU, such as an ombudsman or arbitration court.** **b. The role of an ombudsman or equivalent institution vis-à-vis investor/consumer complaints must be in place and made known to the public.** **c. The ombudsman's impartiality and independence from the appointing authority and industry must also be assured.** **d. The enforcement mechanism of the decisions of the ombudsman or equivalent institution and the binding nature of the decision on intermediaries and CIUs must be in place and publicized.**
Description	The Act on Arbitration, No. 244/2002 Coll. provides for the possibility of arbitration if the

	parties – in this case the customer and stock brokerage firm or asset manager - agree to be bound by the arbitration agreement. However, it does not appear to be included, at least as of the time of this Note, in brokerage account contracts or contracts with management companies. Even so, it is also not practically available to a small retail investor due to the high costs involved. The arbitration system for the securities market is part of the Bratislava Stock Exchange. Its jurisdiction is over disputes regarding trades on the exchange and thus it does not cover all types of consumer suits between a customer and an investment management company or brokerage. It has not been used in several years, apparently due to the low level of consumer involvement in stock trading and the high cost of arbitration. There is no ombudsman system in Slovakia for handling securities complaints. The low-cost character of an ombudsman in which most disputes are resolved prior to disposition has made it a very attractive alternative to other forms of dispute resolution for small customers. The enforcement of an arbitral award is part of the Act on Arbitration, but is not publicized in any special manner.
Recommendation	Amend the Act on Supervision of the Financial Markets to create an ombudsman for the financial markets.
SECTION F	**GUARANTEE & COMPENSATION SCHEMES**
Good Practice F.1	**a. There must be clear provision in the law to ensure that the regulatory authority can take prompt corrective action on a timely basis in the event of distress at an intermediary or CIU.** **b. The law on the investors guarantee fund should be clear on the funds and financial instruments that are covered under the law.** **c. There must be an effective mechanism in place for the pay out of funds and transfer of financial instruments by the guarantee on timely manner.** **d. The legal provisions on the insolvency of intermediaries and CIUs should provide for expeditious, cost effective and equitable provisions to enable the timely payment of funds and transfers of financial instruments to investor/customers.**
Description	The Investment Guarantee Fund is established by Article 80 of the Securities Act. It was created in 2002 as part of the general overall of the legal and institutional infrastructure of the securities markets. All stock brokerage firms licensed by the NBS are obligated to be members of the Guarantee Fund. They must make an initial deposit, annual deposits and extraordinary deposits to capitalize the fund. Since its inception, there have been no claims on the fund and it estimates that it can cover the liabilities of 77% of all members from its own resources without taking out a loan. Article 86(3) of the Securities Act provides that the NBS shall declare a stock brokerage firm to be unable to meet its liabilities to its clients within three days of a brokerage firm's notification that it could not meet its clients' liabilities within 48 hours. It can also do this on its own decision if it determines that the above has occurred or if there is a persistent liquidity shortage or if it is impossible to overcome the temporary liquidity shortage. Article 81 of the Securities Act clearly sets out client assets covered by the Guarantee Fund and Article 88 provides that the payment of compensation shall occur no later than 90 days after the announcement in Article 86(3) or the delivery of a court order under Article 82(1) (b) that the use of client assets of a stock brokerage firm has been

	suspended. Although Article 80(1) indicates that the Fund will collect asset from management companies, this is dropped in the rest of Part V of the Securities Act regarding the Investment Guarantee Fund. Consequently, collective investments are not covered by the Guarantee Fund and no separate fund is established for them.
Recommendation	No recommendations are presented.
SECTION G	**INVESTOR/CONSUMER EDUCATION & FINANCIAL LITERACY**
Good Practice G.1	***Use of Mass-media*** **a. Press should be encouraged to actively cover issues related to retail financial products.** **b. Regulators and/or industry associations should provide sufficient information to the press to facilitate analysis of related issues.**
Description	The media generally cover securities and mutual funds as part of their general business coverage of the stock market. Most emphasis is on general market activity, the performance of specific companies and the prices of stocks and mutual funds. Increased emphasis is being placed on consumer issues for those that are financially literate.
Recommendation	Continued emphasis should be placed on individual consumer issues. Specific commentators and columns on these issues should be encouraged and should find a solid readership.
Good Practice G.2	**Formal Investor/consumer Dissemination and Assistance** **a. The government and regulators should put in place formal investor/consumer information dissemination and assistance to improve investor/consumer awareness and knowledge.** **b. Public education on investor/consumer awareness in the area of securities by non-governmental organizations ought to be encouraged.** **c. The government should develop a strategy for including financial education as part of the general education curriculum.**
Description	No government agency or NGO has responsibility for consumer education in the securities sector. There are no formal programs for education through the mass media or in smaller seminars to community groups. The NBS has indicated that they might set up a television program along the lines of the one that was developed by the former Czech Securities Commission.
Recommendation	Consumer education should be formally under the responsibility of the NBS which can work with other government agencies and NGOs for implementation.

Insurance

The insurance sector in Slovakia is still quite small with five life insurance companies, five non-life insurance companies and 14 composite insurance companies. The assets of the sector account for 7.5 per cent of total financial sector assets and premiums have been growing generally in line with economic growth. Most of the insurance companies are foreign owned and many are related to large and well regarded insurance groups or financial conglomerates.

Slovakia has taken considerable steps over the past few years to strengthen supervision across the financial sector, and within the insurance sector in particular. The current framework provides a high level of compliance with the core principles of insurance supervision established by the

International Association of Insurance Supervisors. Over the past four years European Directives on Insurance have been transposed into various pieces of national legislation.

The law which has been adopted is the Act No.95/2002 Coll. on Insurance and its various amendments. This law covers practically everything which according to EU directives is required for entering the insurance market, organizing an insurance company, managing an insurance company, the conduct of regulatory activities with regard to insurance companies, and the methods for winding up an insurance company. Also to be found here are provisions on certain relations regarding the operation of insurance companies from other Member States, and those from other foreign countries. Provisions on the supervision of the insurance industry are also contained in this law. The inclusion of EU requirements has resulted in legislation that can lack clarity and be difficult to follow. The legislation implies that insurance companies will engage in good business conduct. However the words “consumer” and “consumer protection” are not specifically mentioned within the Act.

In September 2005 Act No. 340/2005 Coll. on Insurance and Reinsurance Mediation entered into force to give effect to EU Directive on Insurance Mediation. This Act establishes the role of insurance intermediaries including agents and brokers, and provides for a register of intermediaries and a framework for their supervision.

The supervision of insurance has passed through three different hands in the past five years. The National Bank took over responsibilities for supervision of insurance on January 2006 and faces the challenge of rapidly building up its knowledge of the sector.

Consumer Protection Framework

Legal Framework

The Insurance Law includes only very broad statements which could imply a need to protect the interest of consumers. For, example, Article 39 states that insurance companies are obliged “to pursue their activities with professional care in the interest of their clients." However, the law does not specifically mention consumer protection. The Law on Insurance Mediation and Reinsurance Mediation requires that an insurance intermediary perform her role with professional care, and must seek to protect the client’s interests. Again the broad role of consumer protection can only be implied.

In many countries the starting point for establishing an effective insurance arrangement between the insurance company and its customer is the insurance contracts law. This law typically covers matters such as information requirements, disclosure and misrepresentations, provisions relating to the contract itself, the payment of claims and expiration, renewal and cancellation. In Slovakia there is no Insurance Contracts Act and the form and content of insurance contracts is governed by the Insurance Contracts section of the Civil Code. This is an old piece of legislation which does not make reference to the needs of the consumer. The Code (section 788) notes that an entity that concludes an insurance contract must be advised of the terms of the contract before it is finalized, and that there should be a written policy. However, there is no mention of many of the issues typically dealt with in specific insurance contracts law and nor of any need to ensure that the contract is easily understandable and written in plain language.

An Insurance Contracts Act should be passed as soon as possible. A draft of this Act has been prepared by the Ministry of Justice and there has been extensive consultation with industry. There is a need to ensure that matters dealing with consumer protection are dealt with in a comprehensive manner. An Insurance Contracts Act should look to developments in other countries which ensure that the contract are presented to the customer in plain language, contain full, true and clear disclosure about products and services they are purchasing, and requiring that customers be fully informed when they are making decisions about insurance, including about with whom they are entering a contract.

The National Bank has broad powers to examine the "shortcomings in activities of supervised entities" and to supervise compliance with the insurance laws but there is no specific mention of "consumer protection" in its mandate. The Act on Supervision of the Financial Market prevents the National Bank from getting involved in disputes arising from legal relations between supervised entities and their clients. These matters fall under the jurisdiction of the courts and other authorities in accordance with separate regulations. This point is further emphasized in the Insurance Act which says that the subject of supervision by the National Bank of Slovakia does not include lawsuits arising from the insurance relations between insurance companies and intermediaries and their client as these must be heard and decided in the competent courts under Civil Code Procedures.

The Civil Code contains a section on Insurance Contracts which sets out rights and obligations for the insured and the insurer. This could provide a basis for legal action on matters where the consumers' interests have been harmed. However, there are no specific obligations to protect the interests of consumers in this law which consumers could rely upon as the basis for legal action.

Although the Slovak Trade Inspection Office (STI) is vested with the power to ensure consumer protection in all matters, it does not have responsibility for insurance. While in theory the Consumer Protection Act encompasses insurance business, a decision by the Supreme Court in 1998 declared that insurance is not captured by the Act. This court decision may have come about because the Trade Inspectorate lacked an understanding of insurance matters and was requesting insurers to make disclosures which were not appropriate or helpful for consumers. This leaves insurance in a vacuum as there is no agency which has a power to impose sanctions against an insurance company for a breach of consumer protection laws.

The consumer protection associations have a broad mandate in consumer matters but play a very limited role in dealing with financial sector consumer issues. There are about 30 such associations which specialize in different areas. These associations can initiate out of court settlements, take court proceedings on behalf of clients and initiate public interest litigation. However, none appears to be looking after the interests of customers with complaints about insurance.

The role of current voluntary consumer protection organizations could be made more effective in the financial sector by ensuring that they have sufficient expertise and resources to deal with financial sector issues. There may be scope to encourage, one, or several of the current organizations to specialize in financial issues in recognition of the fact that this is a highly specialized field of activity. Funding allocated by the Ministry of Finance is often targeted to particular projects and is not sufficient to ensure that the associations can operate effectively.

Disclosure and Sales Practices

Disclosure and sales practices are not dealt with in the insurance law. Reliance is placed on the Law on Advertising which stipulates that advertising has to be in compliance with regulations of economic competition (as specified in the Commercial Code) and that it must not be misleading. However, there is no specific reference to financial products in the advertising law, and like other pieces of law which seek to protect consumers, such as the Consumer Protection Law, its focus appears to be on non-financial matters. The modern concept of a "key facts" document which is designed to present information to consumers in a simple an effective manner is not envisaged in the current law.

The law does not make explicit that insurers must be legally responsible for all statements made in marketing and sales materials that they produce related to their products. Reliance is placed on broad statements in the law that insurance companies must act with "due care."

Neither the NBS nor the Insurance Association adequately monitors form in which information is presented to insurance clients. Type of standard format for the information provided to clients at the point of sale such as a "key facts" or a "product disclosure statement is not used in Slovakia. Nor is there a standard format for finding facts about a client or presenting insurance contracts. The principle of simplicity and plain language is absent from the industry. Providing consumers with simple, clear and understandable information about the services offered by insurance companies, how the products they offer meet the demands and needs of their customers, and the reasons for any advice given should be a key priority. Disclosure requirements should ensure that customers should get information in a clear and understandable way. For companies selling life insurance a clear distinction should be made between traditional life insurance products and investment style products. An example of a disclosure summary is provided in Box 1.

There has been a dramatic change in the sales process for insurance products over the past decade. In the past most insurance was sold primarily directly by insurance companies but now the majority of contracts are sold though agents and brokers. This means that companies have less control over the sales process and must rely on the integrity of intermediaries.

The Insurance Mediation and Reinsurance Law lays out the requirements of intermediaries at the point of sale. This includes carrying out the activity "with professional care, in the interest of the protection of a client's interests." The intermediary is required to provide a proper analysis of the needs of the client and the reasons for the intermediaries' recommendations. However, no details are given about what this analysis should include.

Box 1: Insurance Product Disclosure Summary – Recommended Key Facts

1) Insurance company name
2) Advise that any monies payable to be payable to the insurance company and no cash payment should be made.
3) Name of agent
4) Name(s) of life/lives insured
5) Name of policy owner
6) Basic amount of insurance for each insured
7) Is the consumer applying as a smoker or non-smoker?
8) Additional benefits/riders
9) When benefit(s) are payable
10) Is medical information needed for insurability and when will it be required?
11) Does policy have suicide & contestability clause?
12) Does policy have a conversion clause and if so, until what age?
13) Does policy have a guaranteed renewable clause or is it subject to medical evidence?
14) Notice that consumer has 14 days from receipt of policy to decline the policy with full refund of premium.
15) Are insurance costs guaranteed, for how long and whether such amounts may vary?
16) Are returns on the amounts invested through the insurance product guaranteed or not. If not, reference should be made for client to review additional documentation.
17) Is the face amount of insurance guaranteed or may it vary? If not guaranteed, reference should be made for client to review additional documentation.
18) Are there any specific exclusions under the contract?
19) Is a surrender fee or penalty payable if the contract is surrendered?
20) Is the policy applied for intended to replace another contract?
21) Date and signature of Insurer and\or owner and agent
22) Date the coverage comes into effect

The industry has five classes of intermediaries based primarily on the type of arrangement they have with the insurer and reinsurer. These include exclusive insurance intermediaries, subordinated insurance intermediaries, insurance agents, insurance brokers, and reinsurance intermediaries. One entity cannot hold both brokers and agents licenses, in order to ensure a clear separation of these roles.

All intermediaries must be placed on a register maintained by the National Bank. This register is published on the National Bank's website. Exclusive and subordinated intermediaries are placed on the register based on a proposal by the insurance company which is employing and which takes full responsibility for their actions. Independent agents and brokers must have higher standards of professional capacity and their application for registration must be approved by the National Bank.

The professional capacity of insurance intermediaries is defined by both the education qualifications and practical ability of the intermediary to perform their task at a required professional level. Three levels of professional capacity are defined – basic, medium and highest – based on level of education and years of professional practice in the insurance business. The distinctions between levels of professional qualification are based upon the classification of the intermediary rather than on the complexity of the products which they are selling. There is no connection between product complexity and intermediary education requirements. This means that a person with the basic level of professional requirement could be allowed to sell a complex insurance or investment product if they work for an insurance company. Professional practice may be replaced by passing a professional examination organized by the National Bank or an entity authorized by the National Bank.

In Slovakia, the interpretation of the EU's Mediation Directive constrains the roles of brokers more than in other Member States. This Directive provides scope for interpretation in different Members States. In Slovakia there has been a very strict interpretation of the role of

brokers, who, unlike agents, formally represent the client rather than the insurer. Their general obligation is to give unbiased advice and to seek the best deal for the client. However because of past experience which saw a blurring of the role of agents and brokers, guidance from the National Bank requires that for brokers licensed in the Slovak Republic only functions that result in a fee from the client can be carried out by the broker. On the basis of this interpretation it is impossible for a local broker to receive commission from an underwriter. As this restriction does not apply to brokers licensed in other Member states where this is permitted, this requirement could place local brokers at a competitive disadvantage.

The Slovak approach, while conceptually correct, unfortunately does not allow for the long established reality of the insurance market. In most countries brokers are able to collect commission from insurers. The introduction of corporate brokers also forces vested agent based systems to offer a more comprehensive and professional service to clients. Easing of the current policy could be considered provided brokers are required to disclose to clients when they will receive commissions from the insurer, and if required by the client, to disclose the quantum of such commissions.[11]

Customer Account Handling and Maintenance

The absence of an Insurance Contracts Law means that there are no rules or regulations governing renewals, the payment of claims and the cancellation of policies. Insurance contracts law typically provides a framework for regulating rights and remedies arising out of insurance contracts, including details in areas such as the need for equity, the handling of insurance claims, settlement of claims and cancellation of policies. These laws typically ensure that the policy holder is protected against bad faith claims on the insurer's part, and that contracts and policies issued meet a minimum standard.

Privacy and Data Protection

Confidentiality of customer information is not governed by the Insurance Law. Reliance for data protection is placed on the Protection of Personal Data Act. This Act introduced a more comprehensive system of protection of personal data in line with European law.

Dispute Resolution Mechanisms

There is no effective framework by which consumers can make complaints relating to insurance. The central state authority in charge of matters relating to consumer protection is the Department of Consumer Protection in the Ministry of Economy. However the Ministry's responsibilities extend over the broad range of consumer products and the Ministry appears to have little expertise, or interest the financial sector.

The level of complaints against insurance companies appears to be very low. It may be the case that the lack of and Insurance Contracts Law restricts the basis on which a consumer might

[11] The issue of remuneration of intermediaries was also raised in the EC's Inquiry into the European business insurance sector, January 2007.

seek redress in issues related to their insurance contract. Furthermore, the absence of transparent mechanism for complaints may discourage consumers who may feel that they have been unfairly treated in relation to claims.

Consumers can only seek recourse against an insurance company through the courts. The insurance industry has not established any form of alternate dispute resolution mechanism because of a view that all complaints will be handled by individual insurers. There is also a prevailing view that if a company refuses to pay a claim they are confident of their position and would not wish to enter into mediation. That said, the tradition of out-of-court settlement in Slovakia is quite young and most companies have no experience with such techniques despite the implementation of the Mediation and Arbitration Laws.

Mediation is possible under the Mediation Law but the insurance companies do not have any framework in place to facilitate the mediation process. Mediation is an informal, voluntary and confidential process for resolving conflicts out of court using a mediator. The aim of mediation is to reach an agreement that is acceptable to both parties. Also the consumer organizations which assist consumers in mediation have very limited expertise in financial matters and no experience in insurance matters.

The Insurance Association has been having some preliminary discussion about the possibility of implementing ADR in the industry. It has also held some discussions with the banking industry. Some banks have implemented internal ombudsman schemes and the industry is planning the introduction of an industry ombudsman. Even with the existence of the Mediation and Arbitration Laws the insurance industry would be more confident in implementing such schemes if they were recognized in the Insurance Law.

Guarantees and Compensation Funds

There is no comprehensive protection fund for customers of insurance companies and there are no plans to create one. A motor vehicle third party liability fund was created in September 2001, to pay motor third party liability (MTPL) claims in case of insurance company failure. This scheme is modeled on applicable EU Directives. Under the MTPL arrangements if the identity of the vehicle is unknown or the vehicle is unregistered a person is able to make a claim addressed to the Slovak Insurance Bureau. The Bureau is essentially acting as a nominal defendant and makes payments to the claimant out of the Guarantee Fund.

The wind up of and insurance company is governed by provisions in the Insurance Act. The Act gives the National Bank powers to ensure a more orderly wind up of an insurance company than would be provided for under the Bankruptcy Law. The Law does not have a specific requirement for separation between life assurance business and non-life business but this is implied because, technical reserves must be separately created for life assurance and non-life business. A separation between life assurance business and investment-linked business is also a requirement of IFRS which was implemented in 2006. Article 22(2) requires that technical reserves must be used only to settle claims. This appears to meet the requirements of the EU Directive on Reorganization and Winding-up of Insurance Undertakings but it could be made a little more explicit.

Consumer Education and Financial Literacy

The press appears to have a limited understanding of issues relating to insurance. The media has highlighted some cases involving the activities of the insurance companies, including unsustainable pricing and attempts by some companies to lower claims. Weekly publications such as *Trend* takes an interest in financial sector issues but have only limited circulation. Overall the broader press only focuses on high profile issues and does not play a constructive role in fostering financial education.

The National Bank of Slovakia has a website that publishes information on its activities that can assist the press to analyze and publicize important issues in the financial sector. The National Bank has a media service on its website which provides information about developments in the market. It also covers market developments in its annual Financial Stability Report and annual report.

There is a very basic program for consumer education in primary and secondary school. The government is involved in work to develop a life-long-learning program which will contain a range of strategies for consumer education. However this is yet to be finalized and steps need to be taken in collaboration with the Ministry of Education to include appropriate financial education in the national education system. The Government needs to consider having a formal entity to provide information on financial sector to public based on a clear strategy developed in collaboration with the National Bank, consumer protection associations and industry association. The entity must also be empowered to collect data and provide assistance with inquiries.

Good Practices: Insurance Sector

A proper assessment of the overall insurance 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 insurers 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, insurance systems have less efficiency and access.

SECTION A	**CONSUMER PROTECTION INSTITUTIONS**
Good Practice A.1	**The legal system should recognize and provide for clear rules on consumer protection in the area of insurance and there must be adequate institutional arrangements for implementation and enforcement of consumer protection rules.** ***Legal System*** **d. There should be specific legal provisions in the law which creates an effective regime for the protection of consumers of insurance services.** **e. There should be a general consumer agency or specialized agency, responsible for implementing, overseeing, enforcing consumer protection, and data collection and analysis (including complaints, disputes and inquiries).** **f. The legal system should provide for a role for the private sector, including voluntary consumer protection organizations and self-regulatory organizations.**
Description	(a) The general law governing consumer protection in Slovakia is the Act No. 634/1992 Coll. on Consumer Protection. This law vests the powers in the Slovak Trade Inspection Office (STI) to ensure consumer protection in all matters. Although this law was expected to encompass insurance business a decision by the Supreme Court in 1998 declared that insurance is not captured by the Consumer Protection Act which the Trade Inspection Office is responsible for enforcing. The Act No.95/20024 Coll. on Insurance includes only very broad statements which could imply a need to protect the interest of consumers. For, example, Article 39 states that insurance companies are obliged "to pursue their activities with professional care in the interest of their clients". However, the law does not specifically mention consumer protection. Article 10 of the Act No. 340/2005 Coll. on Insurance Mediation and Reinsurance Mediation requires that an insurance intermediary is obliged to perform her role with professional care, and must seek to protect the client's interests. (b) Overall responsibility for supervising insurance companies, reinsurance companies, and branch offices of foreign insurance companies, intermediaries of insurance, and intermediaries of reinsurance rests with the National Bank of Slovakia. The National Bank has broad powers to examine the "shortcomings in activities of supervised entities" and to supervise compliance with the laws on Insurance and Insurance Mediation and Reinsurance Mediation but there is no specific mention of "consumer protection" in its mandate. Article 2(3) of the Act on Supervision of the Financial Market prevents the National Bank

	from getting involved in disputes arising from legal relations between supervised entities and their clients. These matters fall under the jurisdiction of the courts and other authorities in accordance with separate regulations. This point is further emphasised in Article 42(4) of the Act No.95/20024 Coll. on Insurance which says that the subject of supervision by the National Bank of Slovakia does not include lawsuits arising from the insurance relations between insurance companies and intermediaries and their client as these must be heard and decided in the competent courts under Civil Code Procedures. (c) There is nothing in the law that prevents private sector, including voluntary consumer protection organizations and self-regulatory organizations, from pursuing consumer protection issues.
Recommendation	The rights of consumers in the insurance sector needs to be explicitly recognized in law. As the STI is ill-equipped to deal with consumer issues in the financial sector this role should be given to an agency which has the competency and capability to fulfill the role effectively. There is a need to make the current voluntary consumer protection organizations more effective in the financial sector by ensuring that they have sufficient expertise and resources to deal with financial sector issues. There may be scope to encourage, one, or several of the current organizations to specialize in financial issues in recognition of the fact that this is a highly specialized field of activity.
Good Practice A.2	***Other Institutional arrangements*** **c. The judicial system must provide credibility to the enforcement of the rules on consumer protection.** ***d.*** **The media and consumer associations ought to play an active role in promoting consumer protection.**
Description	(a) The Civil Code, apart from providing broad consumer protection to consumers, provides for the enforcement of its provision through the Court process. Customers can obtain general relief under the Civil Code by taking the insurance company to court to seek redress. However the Insurance Law does not create any specific obligation on an insurance company for protecting the rights of consumers and does not create any mechanisms for dealing with consumer issues. The Civil Code contains a detailed section on Insurance Contracts which sets out rights and obligations for the insured and the insurer. This could provide a basis for legal action on matters where the consumers' interests have been harmed. However, there are no specific obligations to protect the interests of consumers in this law. b. The media does contribute to consumer protection through improvement in consumer awareness. The media has highlighted some cases involving the activities of the insurance companies, including unsustainable pricing and attempts by some companies to lower claims. Specialist financial publications appear to have a greater understanding of insurance issues but they have only a limited circulation and are probably not read widely by the general population. The consumer protection associations have a broad mandate in consumer matters. However, they play a very limited role in dealing with financial sector consumer issues. There are about 30 such associations but they specialize in different areas and none appears to be looking after the interests of customers with complaints about insurance. Pursuant to Act No. 634/1992 Coll. on Consumer Protection, the Ministry of Economy contributes, on yearly basis, to the activity of non-governmental consumer organisations based on the submitted projects. The subsidies range from SKK 100,000 to SKK 800,000 for the individual organisations. For the year 2007, six consumer associations were granted a total amount of SKK 2.5 million. Funding allocated by the Ministry of Finance is often targeted to particular projects and is not sufficient to ensure that the associations can operate effectively.
Recommendation	There is a need to develop an alternative dispute settlement mechanism for the financial sector. This could be sponsored by either the government or industry. Such a mechanism would provide a means to reduce the number of customers who have to rely on the regular court system for relief.

	The media needs to be actively engaged in the consumer protection and education by the government, regulators and industry. There is a need to make the current voluntary consumer protection organizations more effective in the financial sector by ensuring that they have sufficient expertise and resources to deal with financial sector issues. There may be scope to encourage, one, or several of the current organizations to specialize in financial issues in recognition of the fact that this is a highly specialized field of activity. The allocation of funding for consumer protection institutions need to be reviewed with a view to providing sufficient funding. The funding ought to be to further the government's strategy in the consumer protection area.
SECTION B	
Good Practice B.1	***Formal Disclosure*** **f. 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.** **g. Insurers should be legally responsible for all statements made in marketing and sales materials they produce related to their products.** **h. All marketing and sales materials should be easily readable and understandable by the general public.** **i. 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	(a) The Act No 147/2001 on Advertising applies to insurance products. This law stipulates that advertising has to be in compliance with regulations of economic competition (as specified in the Commercial Code) and that it must not be misleading. However, there is no specific reference to financial products in the advertising law, and like other pieces of law which seek to protect consumers, its focus appears to be on non-financial matters. The fact that an insurance company could manipulate technical calculations to mislead consumers does not appear to have been contemplated in the current Insurance Law. (b) The law does not make explicit that insurers must be legally responsible for all statements made in marketing and sales materials that they produce related to their products. (c) The form and content of insurance contracts is governed by the Insurance Contracts section of the Civil Code. This is an old piece of legislation which does not make reference to the needs of the consumer. The Code (section 788) notes that an entity that concludes and insurance contract must be advised of the terms of the contract before it is finalized, and that there should be a written policy. However, there is no mention of the need to ensure that the contract is easily understandable and written in plain language. (d) The modern concept of a "facts find" document which allows the insurer or their intermediary to discover information about the clients needs is not envisaged in the current law.
Recommendation	(a) and (b) There is a need to undertake a review of all laws relating to insurance to ensure that issues related to consumer protection are included in those laws. Current law does not deal with issues related to insurance sales and marketing. (c) The Regulator and the Insurance Association should take much greater interest in the form in which information is presented to insurance clients. There is a need to develop a standard format for the information provided to clients. A "key facts" or a "product disclosure statement" in a standard form should be provided to all insurance customers at the time of sale. (d) There should be standardized process which allows the insurer or their intermediary

	to discover information about the clients (known as a "facts find), particularly when they are selling complex products.
Good Practice B.3	***Sales Practices*** **h. All insurance intermediaries should be licensed and proof of licensing should be readily available to the general public, including through the internet.** **i. Sales personnel and intermediaries selling and advising on insurance contracts should have sufficient qualifications, depending on the complexities of the products they sell.** **j. Educational requirements for intermediaries selling long term savings and investment insurance products should be specified, or at least approved, by the Regulator or Supervisor.** **k. The sales intermediary or officer should be required to obtain sufficient information about the consumer to ensure 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.** **l. Insurers should be held responsible for product related information provided to consumers by their agents (i.e. those intermediaries acting for the insurer).** **m. The consumer should be made aware of whether the intermediary selling them an insurance contract (known as a policy) is acting for them or for the insurer (i.e. in the latter case they have an agency agreement with the insurer).** **n. 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.** **o. 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. There must 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.** **q. Sanctions, including meaningful fines and, in the case of intermediaries, loss of license, should apply for breach of any of the above provisions.**
Description	(a) The Act No. 340/2005 Coll. on Insurance Mediation and Reinsurance Mediation creates five classes of intermediaries based primarily on the type of arrangement they have with the insurer and reinsurer. These are: • exclusive insurance intermediaries, • subordinated insurance intermediaries, • insurance agents, • insurance brokers, • reinsurance intermediaries. All intermediaries must be placed on a register maintained by the National Bank. The register is published on the internet site of the National Bank. Exclusive and subordinated intermediaries are placed on the register based on a proposal by the insurance company which is employing them. Independent agents and brokers must have higher standards of professional capacity and their application for registration must be approved by the National Bank. (b) The professional capacity of insurance intermediaries is defined by both the

	theoretical ability and practical ability of the intermediary to perform their task duly and at a required professional level. Three levels of professional capacity are defined – basic, medium and highest – based on level of education and years of professional practice in the insurance business. The distinctions between levels of professional qualification are based upon the classification of the intermediary rather than on the complexity of the products which they are selling. Professional practice may be replaced by passing a professional examination organized by the National Bank or an entity authorized by the National Bank. (c) No distinction is made on the basis on products sold. (d) Prior to the conclusion of an insurance policy, an insurance intermediary is obliged, to assess the needs and requirements of the client before recommending an insurance product for the client. (e) The law does not specifically require that insurers be held responsible for product-related information provided to consumers by their agents (i.e. those intermediaries acting for the insurer). However, the agent is responsible for the manner in which she presents information to a client. (f) The laws requires an insurance intermediary to inform the client whether they are working as an agent for one insurance company or more than one insurance company, or as an insurance broker as defined in Section 7(2) of the Law. (g) Because of past experience which saw a blurring of the role of agents and brokers, guidance from the National Bank requires that only functions that result in a fee from the client can be carried out by the broker. On the basis of this interpretation it is impossible for a broker to receive commission from an underwriter. (h) An intermediary can only be registered in one class. This means that they cannot ask as both an agent and a broker for a given class of insurance. (i) There is no cooling off period. A person may be able to take action in a civil court if they can demonstrate that they were pressured into signing a contract. However, this is likely to be difficult and expensive to prove. (j) Many of these matters are not covered by the law hence sanctions do not exist.
Recommendation	(b) Sales personnel and intermediaries selling and advising on insurance contracts should have sufficient qualifications, depending on the complexities of the products they sell. Those selling more complex products should be required to have more extensive qualifications. (g) Easing of the current policy preventing brokers from receiving commissions from insurance companies could be considered provided brokers are required to disclose to clients when they will receive commissions from the insurer, and if required by the client, to disclose the quantum of such commissions. Overall, the Insurance Association could contemplate adopting a Code of Ethics of Insurance in order to establish ethical norms of conduct and establishing certain professional standards and guidelines. Ideally this code should be obligatory for all members of the Slovak Association of Insurance Brokers.
Good Practice B.4	***Roles of Third Parties*** **d. 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.** **e. If credible claims paying ability ratings 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.**
Description	(a) In its most recent annual Financial Stability Report the National Bank provided an outline of developments in the insurance sector, including comments on sector profitability and reserving. The Act No.95/20024 Coll. on Insurance does not require an insurance company to publish information about the company or its financial position. Article 34 of the Law on Insurance requires semi-annual and annual reporting to the

	Ministry of Finance and the National. The annual accounts must contain an auditor's opinion. (b) The National Bank does not appear to publish financial data for individual entities in the financial system.
Recommendation	The National Bank should publish a summary table of the financial position of all insurance companies highlighting the capital position and solvency of the companies and reporting assets and liabilities and profit and loss accounts of the companies.
Good Practice B.5	***Contracts*** **a. 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.**
Description	Insurance contracts are regulated on the basis of Act No. 40/1964 Cull known as the Civil Code. Title 15 of the Code defines a number of insurance terms and conditions and provides a basic framework for the conclusion of an insurance contract. The Code does not make any reference to consumer protection. The Ministry of Justice has prepared a new bill on insurance contracts (based largely on the Czech law) which has been discussed with, and is supported by the insurance industry. However, because there is no EU Directive on insurance contracts the legislation appears to have been given a low priority and there is no indication that it will be brought to the Parliament in the near future.
Recommendation	The new legislation on insurance contracts should be implemented as soon as possible. It should be reviewed to see if further amendment is needed to give emphasis to consumer protection issues
SECTION C	**CUSTOMER ACCOUNT HANDLING AND MAINTENANCE**
Good Practice C.1	**g. The customer should receive periodic statements of the value of their policy in the case of insurance savings and investment contracts. For traditional savings contracts this should be at least yearly, however more frequent statements should be produced for investment linked contracts.** **h. Customers should have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period.** **i. 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.** **j. 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 30 days notice.** **k. 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.** **l. 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	(a) There are no requirements for reporting the value of policies to clients. The concept

	of life assurance linked to investment funds is recognized in Annex 1 to the Act No.95/20024 Coll. on Insurance; however, there is no requirement for it to be treated any differently from other forms of insurance. Companies would typically provide an annual statement to clients with investment contracts. (b) Insurance companies have call centers and websites both of which can be used to make a complaints to the company. However, it is not clear that these make explicit that they outline a clear process for dispute resolution. (c) This form of contract is not given any special recognition under the insurance law. (d) There are no laws or regulations governing renewals. (e) There are no laws or regulations governing the payment of claims. (f) There are no laws or regulations governing the cancellation of policies.
Recommendation	The new Law on Insurance Contracts should be implemented as soon as possible**.**
SECTION D	**PRIVACY & DATA PROTECTION**
Good Practice D.1	**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 unauthorized access to or use of customer information that could result in substantial harm or inconvenience to any customer.**
Description	Confidentiality of customer information is governed by the Act No. 428/2002 Coll. on the Protection of Personal Data. This Act introduced a more comprehensive system of protection of personal data in line with European law. Article 41 of the Act No.95/20024 Coll. on Insurance requires that a broad range of parties related to an insurance company including its directors and employees as well as other persons participating in the activities (presumably meaning intermediaries) are obliged to maintain confidentiality of the facts they got to know in connection with their position or during the fulfilment of their professional duties which have impact on the interests of its individual participants in the markets (presumably meaning individuals). These confidentiality provisions apply even when a person no longer works for the insurer.
Recommendation	No recommendations are presented.
Good Practice D.2	***Informing the customer*** **e. Insurers ought to explain how they use and share customers personal information and must 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.** **f. The law ought to allow a customer to stop or "opt out" of certain information sharing within or between financial groups and the insurers should be required to inform the customers of their option.** **g. The law should prohibit the disclosure of information of customers by third parties.**
Description	(a) Under the Act No. 428/2002 Coll. on the Protection of Personal Data information cannot be shred without consent. (b) Insurance companies include in their contracts a clause which allows them to share customer information within a financial group. This particular clause is unlikely to be brought to the attention of a client and there are no arrangements which would allow the client to "opt out" from the arrangement which allowed the company to share information with an affiliate. (c) Personal data can only be provided to another party if a written confirmation of

	consent is obtained.
Recommendation	Customers should be given an option to "opt out" of information sharing within a financial group.
Good Practice D.3	***Permitted Disclosures*** **c. The law ought to state specific procedures and exceptions concerning the release of customer financial records to government authorities.** **d. The law ought to provide for penalties for breach of insurer secrecy.**
Description	(a) The confidentiality provisions in Article 41 of the Act No.95/20024 Coll. on Insurance do not apply to information provided to the Social Insurance Company, the National Bank if used for the purposes of supervision, a court, and the tax authorities. There are no specific procedures for the release of customer information to the authorities. (b) There are no sanctions relating to the confidentially provisions of the Insurance Law. This matter is dealt with in the Act No. 428/2002 Coll. on the Protection of Personal Data. Penalties ranging from SKK 50,000 to SKK 10,000,000 can be applied under this law.
Recommendation	No recommendations are presented.
SECTION E	**DISPUTE RESOLUTION MECHANISMS**
Good Practice E. 1	***Internal Dispute Settlement*** **e. An internal avenue for claim and dispute resolution practices within the insurer must required by the supervisory agency.** **f. Insurers should designate employees to handle retail policyholder complaints.** **g. The insurer must inform its customers of the internal procedures on dispute resolution.** **h. The regulator or supervisor must provide oversight on whether insurers comply with their internal procedures on consumer protection rules.**
Description	(a) There is no legal requirement for insurance companies to have any internal avenue for claims and dispute resolution. (b) Companies become aware of disputes via complaints made through call centers and the website and deal with them on an ad-hoc basis. The level of complaints is very low (c) Clients are not given information about where they can make a complaint. (d) Reports of complaints are provided to the National Bank. However the industry is not aware that the National undertakes any analysis of complaints. On 1 February 2007 the National Bank of Slovakia created a department for dealing with consumer complaints. The Bank has indicated that it is taking on this role under existing powers and is not proposing any changes to the law of to regulations. It can take some action in cases where the behavior of the insurance company threaten its overall stability but cannot interfere interfering with the relationship between an insurance company and its customer, though Section 1 of the law states that "The purpose of supervision of the financial market is to contribute to the stability of the financial market as a whole, as well as it its safe and smooth operation, in the interest of maintaining the credibility of the financial market, the protection of customers and the compliance with the rules of Competition.". The National Bank can ask the internal audit function within an insurance company to provide a report as to how the company has dealt with complaints and it can presumably exercise some moral suasion if it feels that companies are failing to treat customers fairly.
Recommendation	The National Bank should require all insurance companies to provide information to consumers on how to seek a remedy, including redress, for problems arising out of interactions with insurance

	Companies or intermediaries. The insurance companies should be required to prepare a policy on internal dispute resolution. The policy should be subject to review by the National Bank as part of its normal supervision procedures.
Good Practice E.2	***Formal Claims Dispute Mechanisms*** **e. 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 complaints and inquiries bureau.** **f. The role of an ombudsman or equivalent institution vis-à-vis consumer complaints must be in place and made known to the public.** **g. The ombudsman's impartiality and independence from the appointing authority must also be assured.** **h. The enforcement mechanism of the decisions of the ombudsman or equivalent institution and binding nature of the decision on insurers must be in place and publicized.**
Description	(a) Consumers can only seek recourse against an insurance company through the courts. The insurance industry has not established any form of alternate dispute resolution (ADR) mechanism because of a view that all complaints will be handled by individual insurers. There is also a prevailing view that if a company refuses to pay a claim they are confident of their position and would not wish to enter into mediation. That said, the tradition of out-of-court settlement in Slovakia is quite young and most companies have no experience with such techniques despite the implementation of the Mediation and Arbitration Laws. The Insurance Association has been having some preliminary discussion about the possibly of implementing ADR in the industry. It has also held some discussions with the banking industry. Some banks have implemented internal ombudsman schemes and the industry is planning the introduction of an industry ombudsman. Even with the existence of the Mediation and Arbitration Laws the insurance industry would be more confident in implementing such schemes if they were recognized in the Insurance Law. (b) See above (c) Not applicable (d) Not applicable
Recommendation	The Insurance Association should develop an alternative dispute resolution mechanism.
SECTION F	**GUARANTEE & COMPENSATION SCHEMES**
Good Practice F.1	**e. 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.** **f. Nominal defendant arrangements should be in place for mandatory insurances such as motor third party liability insurance.** **g. 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.**
Description	(a) A motor vehicle third party liability (TPL) fund which was created in September 2001, will pay TPL claims in case of insurance company failure. This scheme is modeled on applicable EU Directives. There are no plans to create a comprehensive guarantee scheme. (b) Under the MTPL arrangements if the identity of the vehicle is unknown or the vehicle

	is unregistered a person is able to make a claim addressed to the Slovak Insurance Bureau. The Bureau is essentially acting as a nominal defendant and makes payments to the claimant out of the Guarantee Fund. (c) The Law does not have a specific requirement for separation between life assurance business and non-life business and between life assurance business and investment-linked business but this is implied because, technical reserves must be separately created for life assurance and non-life business. A separation between life assurance business and investment-linked business is also a requirement of IFRS which was implemented in 2006. Article 22(2) of the Insurance Law requires that technical reserves must be used only to settle claims. This appears to meet the requirements of the EU Directive on Reorganization and Winding-up of Insurance Undertakings but it could be made a little more explicit.
Recommendation	The preference given to policyholders claims over other claims could be made more explicit.
SECTION G	**CONSUMER EDUCATION & FINANCIAL LITERACY**
Good Practice G.1	***Use of Mass-media*** **c. The press should be encouraged to actively cover issues related to retail financial products.** **d. Regulators and/or industry associations should provide sufficient information to the press to facilitate analysis of related issues.**
Description	(a) The press appears to have a limited understanding of issues relating to insurance. As mentioned earlier, the media has highlighted some cases involving the activities of the insurance companies, including unsustainable pricing and attempts by some companies to lower claims. Weekly paper such as Trend seems to take keen interest in financial sector issues but have only limited circulation. (b) Neither the Insurance Association nor individual insurers have a formal consumer education program. National Bank of Slovakia has a website that publishes information on its activities that can assist the press to analyze and publicize important issues in the financial sector. The National Bank has a media service on its website which provides information about developments in the market. It also covers market developments in its annual Financial Stability Report and annual report.
Recommendation	The National Bank should in put in place a system of consumer alerts to highlight to the press and public any consumer protection issues in the insurance sector.
Good Practice G.2	**Formal Consumer Dissemination and Assistance** **d. The government and regulators ought to put in place formal consumer information dissemination and assistance to improve consumer awareness and knowledge.** **e. The government should develop a strategy for including financial education as part of the general education curriculum.**
Description	(b) There is no evidence of any effort on the part of the government or regulator in providing through a formal channel, consumer awareness or information. (c) There is a very basic program for consumer education in primary and secondary school. The government is involved in work to develop a life-long-learning program which will contain a range of strategies for consumer education. However this is yet to be finalized.
Recommendation	Since financial products are sophisticated, consumers require help in improving their awareness and knowledge level. The Government needs to consider having a formal entity to provide information on financial sector to public based on a clear strategy developed in collaboration with the National Bank, consumer protection associations and industry association. The entity

	must also be empowered to collect data and provide assistance with inquiries. Steps need to be taken in collaboration with the Ministry of Education to include appropriate financial education in the National education system.

Private Pensions

A new multi pillar pension system was introduced in 2005. The system involves a publicly managed pillar based on a notional defined contribution account (first pillar), a new private and fully funded system (second pillar), and a voluntary and complementary fully funded system (third pillar). Participation in the new second pillar was mandatory for all new entrants to the workforce and voluntary for workers with more than 10 years before retirement.

The second pillar operates as a defined contribution scheme with individual accounts in pension in pension funds operated by pension fund management companies (PFMCs). There are six companies which are all related to strong international financial groups mainly from the insurance sector. (See Tables 6 and 7.)

Table 6 :Net Asset Value of Pension Fund Management Companies (in SKK 000s)

Pension Fund Management Company	2005	2005
Winterthurd.s.s.,a.s.	n.a.	7,824,796
Credit Suisse Life & Pensions d.s.s., a.s.	2,696,584	n.a.
Allianz–Slovenskádôchodkovásprávcovvskáspoločnosť,a.s.	2,398,748	8,451,038
VÚBGenerali,d.s.s.,a.s.	1,538,548	4,227,509
INGdôchodkovásprávcovskáspoločnosť,a.s.	782,446	3,071,331
ČSOB,d.s.s.,a.s.	530,279	1,591,948
AEGON,d.s.s.,a.s.	385,951	2,775,793
SPDSS	330,108	n.a.
PDS	375,944	n.a.
Total	9,038,608	27,942,415

Source: Ministry of Finance

Table 7: Total Asset of Pension Insurance Companies (DDPs) (in SKK 000s)

Pension Insurance Company	2004	2005
DDP Stabilita	3,135,754	3,752,598
CreditSuisse DDP	1,241,574	1,953,316
DDP ING	48,194	67,221
DDP Tatry-Sympatia	6,787,415	8,043,439
DDP Pokoj	3,241,684	4,213,805
Total	14,454,621	18,030,379

Source: Ministry of Finance

The third pillar has operated for some years but is being transformed. The changes will take it from an arrangement involving mainly additional pensions offered through "pension insurance companies" into an individual account system offered by four specialized pension assets management companies (SPAMCs). This part of the system allows for both individual voluntary saving as well as collective voluntary savings through agreements with employers typically

involving contribution by employers based of a percentage of wages. The government provides tax incentives for individuals contributing to this pillar.

There was an extensive consumer education program for the new pension system. The program was conducted by the Ministry of Labor, Social Affairs and Family, the Ministry of Finance and the National Bank, as well as the advertising campaigns of the PFMCs. The PFMC's and the Ministry indicated to that participates were like to get higher pensions by joining the new system because of the growing pressures on the existing pay-as-you-go system, although there are no guarantees of higher returns. The system proved more popular than expected and more than 1.5 million people chose to join compared to Ministry forecasts of around one million. This greater number of participants will mean that the government will suffer a greater loss of revenue than was forecast and that the money set aside from privatization receipts will be exhausted in a little over three years placing greater strain on the government budget.

Consumer Protection Laws and Institutions

Although the law has been changed to prevent the type of abuses (discussed later) which occurred during the introduction of the new pensions system, the whole experience highlights some general weakness in the consumer protection framework. The Law on Retirement Pension Saving does not include provisions on client protection like those found in the insurance intermediaries and securities law. For example, Article 10(1) of the Act on Insurance Mediation requires that an intermediary is obliged to perform mediation of insurance with professional care and in the interest of the protection of a client's interests.

The National Bank has broad powers to examine the "shortcomings in activities of supervised entities" and to supervise compliance with the pension laws but there is no specific mention of "consumer protection" in its mandate. The Act on Supervision of the Financial Market prevents the National Bank from getting involved in disputes arising from legal relations between supervised entities and their clients. These matters fall under the jurisdiction of the courts and other authorities in accordance with separate regulations. However, the National Bank can take action through its on-site control of financial institutions using general powers under the supervision law.

Although the Slovak Trade Inspection Office (STI) is vested with the power to ensure consumer protection in all matters it does not have responsibility for pensions. This body again has limited expertise in financial matters but more importantly has not been given responsibility for surveillance of either the second or third pillar pension companies. Even if given responsibilities it has neither the skills nor staff to examine this area. Trade inspection could not give any examples of complaints it had received regarding pensions which it would have passed on to the National Bank.

The consumer protection associations have a broad mandate in consumer matters but play a very limited role in dealing with financial sector consumer issues. There are about 30 such associations which specialize in different areas. These associations can initiate out of court settlements, take court proceedings on behalf of clients and initiate public interest litigation. However, none appears to be looking after the interests of customers with complaints about pensions.

The role of current voluntary consumer protection organizations could be made more effective in the financial sector by ensuring that they have sufficient expertise and resources to deal with financial sector issues. There may be scope to encourage, one, or several of the current organizations to specialize in financial issues in recognition of the fact that this is a highly specialized field of activity. Funding allocated by the Ministry of Finance is often targeted to particular projects and is not sufficient to ensure that the associations can operate effectively.

Disclosure and Sales Practices

Part of the success of attracting participants to the new pension system may have been due to aggressive marketing. Nearly 30,000 agents were authorized to market the new pension product offered by the PFMC's. The law provided for the use of intermediaries tied to PFMC's who were given the responsibility to provide professional advice and to conclude contracts on behalf for people entering the new system. There is ample evidence to suggest that during this process there was some degree of mis-selling of the new pension products. For example, the Ministry was careful to point out that the new system may not be suitable for people over the age of 40 as these people may not have sufficient remaining working life to build up a sufficient balance in the new system to provide them with substantial income in retirement. A statutory age limit for joining the system was considered but deemed to be unconstitutional. Also participants must be in the new system for 10 years before they are entitled to draw money from the system. Otherwise they cannot access their contribution and the accumulated funds can only be paid to their beneficiaries on their death. Despite these warnings nearly 390,000 people over the age of 40 joined the system. In addition there was fierce competition among PMFC's which drove up the commission paid to agents by the PFMC's from less than SKK 1,000 to up to as high as SKK 9,000.

Despite being prohibited by the law, there was a widespread practice of agents sharing part of the commission with the customers in order to entice them to sign up. There were also some cases where the consumer was fraudulently entered into the new system without signing any contract. There was widespread switching between PFMC's in the latter part of 2006, seemingly also supported by agent inducements. There were also instances where the agents for one PFMC suggesting that the other companies were financially unsound. The National Bank investigated several hundred cases where the law may have been breached but found it difficult to gather evidence to take legal action because there were few complaints at the time from customers who were gaining from sharing the commissions. At least one PFMC created its own fraud committee to eliminate abuse and has been actively following up cases where fraudulent signatures may have been used.

These practices have resulted in changes to the law. Switching may only occur every two years and must be accompanied by an express written statement from the customer that they are willing to switch from one PFMC to another. This acceptance letter must be accompanied by certificate provided by the Social Insurance Agency proving that they have been a member of a fund for two years. This certificate costs SKK 500. The National Bank has also issued rules which limit the amount of advertising and marketing expenses which a PFMC can incur.

The role of tied agents was eliminated as of January 2007. In future only the employees of PMFC's will be allowed to conclude retirement pension saving contracts, provide services related to this activity, and provide professional advice in the field of retirement pension saving. The amount of commission payable to an agent was capped until the end of 2006 and the activity of agents has now ceased.

There are no longer any legal requirements for the licensing of staff marketing second pillar pensions. The abolition of tied agents means that there is no longer a need for training and licensing framework for agents. Since all of the PFMC's are owned by banking and insurance groups it seems highly likely that they will use existing staff working either for the bank or the insurance companies to sell pension products. This should not be seen as implying that staff within the PFMCs should not have sufficient skills to explain to new entrants, and more importantly to those who wish to switch from one PFMC to another, the main attributes of the pension products available and the risks inherent in choosing a particular product.

Even though agents disappeared from the second tier in 2007, they will continue to operate in the third pillar. These agents must be registered with the National Bank but only three licenses have been issued to intermediaries. This suggests that nearly all contact between customers for third pillar product takes place directly with the SPAMC. In the absence of the concept of financial planner, financial planning services appear to be provided by SPAMCs based on the general competencies of their staff. However, the current system does not ensure that the staff of these companies have the requisite expertise and competence to fulfill this role.

Commissions were paid by the PFMC's and were not borne by the consumers. However, it is possible that some consumers were encouraged to join the new system by inducements when it may not have been in their best interest to join. Whether this is a major problem is difficult to assess. Only a small number of clients have made complaints to the PFMC's about being misled and consumer surveys have shown a high level of satisfaction with the new pension system. The Law does not allow PFMC's void a contract and the parties must go to the court to have the contract cancelled. The PFMC's are prepared to cancel contracts where the consumer has a legitimate case and will meet the consumer's legal expenses. The Government is considering legislative amendments which would allow certain members (perhaps this over 40 years of age) to return to the previous PAYG system people entering the employment market for the first time the option of joining only the PAYG system and not participating in the second pillar. These proposals seem to be largely driven by fiscal issues than concern about consumers.

Fees in the second pillar are capped at low levels. The law places a ceiling on the contribution fee of one percent of contributions and an annual management fee of up to 0.9 percent of the net asset value of the fund. The cap for asset management fees will fall in 2008. Some PFMCs have currently waived fees for new entrants. If a person joining the workforce does not select a PFMC within 30 days of joining the workforce her account will be allocated to the conservative fund of PFMCs with the lowest fees by the Social Insurance Agency. The four smaller companies have set these fees at zero in order to be allocated these new clients. They then contact the client to encourage them to move from the conservative funs to a growth fund where fees are then charged.

The new pension system has lower fees than most other reforming countries. This is largely because marketing fees must be borne by the PFMCs and because of the caps on fees which are in place. However, it has resulted in PFMCs reporting substantial losses. The companies may seek to recoup losses through the cross-selling of other financial products.

Fees charged by the SPAMCs are not so constrained. The maximum level of fees in the third pillar is limited to three percent of net asset value**.** Like the second pillar commissions must be borne by the SPAMCs. The level of fees appears a little high given the tight constraints on investments and the limited for scope of active management of the portfolio.

Pension entities are required provide an information document which contains the necessary information for a saver to understand the nature of the investment and the risks involved. There is a specific requirement that this document must not contain any misleading information. The document requires the pension management company to outline the type of assets in which it plans to invest, the investment strategy, likely volatility of the investment. The range of investment options is limited to one growth pension fund, one balanced pension fund, and one conservative pension fund

PFMC's are required to make detailed public disclosure regarding the performance of investments. Companies must calculate daily and publish weekly in national newspapers the value of units in a pension fund and the net asset value of the fund. They must publish fees at least once a month. They must also create a website which provides details of the financial position of the company. They are obliged to publish semi-annual and annual reports on the company's activities and on the management of assets in pension funds managed by the company. The website must also provide free secured access to the saver to regularly updated data relating to her personal pension account.

SPAMCs must also make regular detailed public disclosures on a website. These companies must publish data on the benefit plans they offer, and provide information prospectuses on their website. They are required to inform in writing a participant at least yearly free of charge of the level of fees they charge and of the level of costs and fees they pay to other parties for the management of the fund and its assets.

Solicitation of pension products does not appear to be an issue in Slovakia. Now that the new pension arrangements are in place a person can only enter the system when they join the workforce and marketing by pension management companies appears limited. The provision of supplementary pensions typically occurs through a person's employment relationship and hence there is again limited scope for marketing to have an influence. Larger employers typically have a contract with a number of the supplementary pension asset management companies and new employees have a choice among these fund.

Customer Account Handling and Maintenance

Customers in both PFMC's and SPAMCs receive sufficient information to give them a comprehensive picture of their accounts. In addition to regular statements of account from companies customers have access to web-based statements for PFMC's. As these are long-term saving vehicles the provision of this information is adequate to meet customers' needs.

Privacy and Data Protection

The Law provides for the protection of personal information. The PFMC's indicated that they consider privacy and secrecy very important and ensure compliance with the requirements of the law.

All of the PFMC's are part of larger financial conglomerates and they seem to have plans to engage in cross-marketing activities of other financial products offered by the group. Because PFMCs have been making losses they will be seeking to sell other group products to pension savers as a means of making the business more profitable. The contracts that companies

provide to savers give them approval to share this information with other companies in the group but it is not clear that customers are given an explanation about this clause, nor are they given an opportunity to opt out from the information sharing arrangements.

Dispute Resolution Mechanisms

There is no effective framework by which consumers can make complaints relating to pensions There is no legal requirement for PFMC's and SPAMCs to have any internal avenue for claims and dispute resolution. Companies become aware of disputes via complaints made through call centers and the website and deal with them on an ad-hoc basis. Because of the tight control and high level of transparency in the system there are a limited number of complaints. Clients are not given information about where they can make a complaint.

Mediation is possible under the Mediation but the pension companies do not have any framework in place to facilitate the mediation process. Mediation is an informal, voluntary and confidential process for resolving conflicts out of court using a mediator. The aim of mediation is to reach an agreement that is acceptable to both parties. Also the consumer organizations which assist consumers in mediation have very limited expertise in financial matters and no experience in pension matters.

Individuals can go to the National Bank with complaints. The National Bank will can act as a clearing house for complaints against pension funds. However, it cannot take action to provide a remedy for the customer. The National Bank passes complaints to the PFMC's which are obliged to respond to the customers within 30 days.

Guarantees and Compensation Funds

There are very strong controls over the safety of assets in both the PFMCs and the SPAMCs. In managing a pension fund the companies are obliged to do so in the best interests of savers and beneficiaries and "in the interests of their protection." The law establishes a detailed set of investment limits and companies must adopt an investment strategy and risk profile defined in statute of the fund, designed to avoid any risk of financial loss and ensuring that all deals are conducted after assessing their benefits. There is extensive reporting to the National Bank.

Assets of both PFMC's and SPAMCs must be placed with a depository to further strengthen their security. The depository is responsible for ensuring that trades comply with the investment rules. Depositories can only be banks operating in Slovakia which have been authorized by the National Bank to undertake depository business. The depository is required to act with professional care and "exclusively in the interests of the savers." The depository also has extensive reporting responsibilities to the National Bank.

A Minimum Return Guarantee has been adopted to avoid major discrepancies among the returns of different PFMC's. The guarantee is mandatory and does not affect choices which the pension fund member needs to make. There are no requirements for companies to have a minimum level of reserves or a special purpose guarantee fund to make payments in case the guarantee is triggered. Instead reliance appears to the placed on the connection which the companies have to strong financial services groups.

The Social Insurance Agency makes good any contributions which an employer fails to make. The agency forwards funds that an employer has failed to make to the PFMC and then seeks to recover these funds from the employer. The Social Insurance Agency also provides full indemnity for any damage arising from action by the PFMCs or depositories which are contrary to the Law or other generally binding legal regulations, including negligence and fraud, which result in damage to a pension fund's assets. A decision to provide compensation for the damage referred must be issued by a court. Where compensation for damage has been awarded by a court, funds are transferred to the account of the saver. Following the transfer of funds the Social Insurance Agency becomes the creditor and seeks to recover the money from the PFMC or depository bank

Consumer Education and Financial Literacy

Although there was an extensive consumer education program when the new pension system was introduced efforts at the present time to educate new entrants to the labor force about the new system appear limited. Even though young people entering the system have limited options (basically which of the three funds to join) they should have access to educational material explaining the new pension system. It is particularly important to explain to them that the system involves some risks and that the value of their account can fluctuate with market movements, but that the investment is for the long term and that these fluctuations are to be expected. They also need to be educated about the options they have to make voluntary contributions to the third pillar.

The press appears to have a limited understanding of issues relating to pension fund managements and investment. The main-steam press did not appear to play a significant role in identifying and highlighting the mis-selling practices which were apparent during the introduction of the new pension system because of a conflict of interest arising from the fact that they were receiving substantial advertising revenue from the PFMC's. Weekly paper such as *Trend* seems to take keen interest in financial sector issues but have only limited circulation. Overall the broader press only focuses on high profile issues and does not play a constructive role in fostering financial education.

Neither the Association of PFMC's nor the Association of SPAMCs has a formal consumer education program. These companies are required by the law to provide extensive information to clients and to make available and update websites outlining their activities. However, there is no active program of consumer education.

National Bank of Slovakia has a website that publishes information on its activities that can assist the press to analyze and publicize important issues in the financial sector. The National Bank has a media service on its website which provides information about developments in the market. It also covers market developments in its annual Financial Stability Report and annual report.

There is a very basic program for consumer education in primary and secondary school. The government is involved in work to develop a life-long-learning program which will contain a range of strategies for consumer education. However this is yet to be finalized and steps need to be taken in collaboration with the Ministry of Education to include appropriate financial education in the national education system. The Government needs to consider having a formal

entity to provide information on financial sector to public based on a clear strategy developed in collaboration with the National Bank, consumer protection associations and industry association. The entity must also be empowered to collect data and provide assistance with inquiries.

Changing economic conditions and the growing complexity of financial products point to a growing need for increased consumer and financial literacy in Slovakia. For example, with changes to the pensions system, increasing numbers of workers now have to rely on personal savings and private pensions to fund their retirement. As a result of recent changes a large number of people will need to develop the skills necessary to plan and support their retirement. There are a growing number of countries that could serve as a model for a comprehensive consumer education program.

Good Practices: Private Pensions Sector

A proper assessment of the overall private pensions 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 pension entities12 and the public in general are one of the key issues for the development of the economy. In the absence of transparency in the provision of pension products, adequate consumer awareness and protection and dispute resolution mechanisms, confidence in the pensions framework can be undermined.

SECTION A	**CONSUMER PROTECTION INSTITUTIONS**
Good Practice A.1	**The legal system should recognize and provide for clear rules on consumer protection in the area of private pensions and there must be adequate institutional arrangements for implementation and enforcement of consumer protection rules.** ***Legal System*** **g. There should be specific legal provisions in the law which creates an effective regime for the protection of consumers who deal with pension entities.** **h. There should be a general consumer agency or specialized agency, responsible for implementing, overseeing, enforcing consumer protection, and data collection and analysis (including complaints, disputes and inquiries).** **i. The legal system should provide for a role for the private sector, including voluntary consumer protection organizations and self-regulatory organizations.**
Description	(a) The general law governing consumer protection in Slovakia is the Law No. 634/1992 Coll. on Consumer Protection. This law vests the powers in the Slovak Trade Inspection Office (STI) to ensure consumer protection in all matters. When this law was enacted the current system of pensions was not contemplated and the current system does not appear to fall under the responsibility of the Trade Inspection. A range of provisions which seek to protect the interest of consumers are contained in the Law No.43/2004 Coll. on Retirement Pension Saving and the Law No. 650/2004 on Supplementary Pension Saving. Article 61 provides for a Code of Practice for the Management of Pension Funds which places a very broad obligation on the pension fund management company (PFMC) to act in the interest of savers and beneficiaries and in the "interests of their protection". There is no specific reference to the term consumer protection in either of these pieces of Law. (b) Overall responsibility for supervising PFMC's, pension funds, old-aged pension intermediaries, supplementary pension insurance companies, supplementary pension companies and supplementary pension funds rests with the National Bank of Slovakia. The National Bank has broad powers to examine the "shortcomings in activities of supervised entities" and to supervise compliance with the laws on Retirement Pension Saving and Supplementary Pension Saving but there is no specific mention of "consumer protection" in its mandate.

[12] There are a number of institutional structures under which individuals can acquire private pensions. These include specialized pension management companies, trusts, other corporate structures or through pension products should by banks and insurance companies. For the purpose of these guidelines these will be referred to collectively as pension entities and the products will be referred to as pension products.

	Article 2(3) of the Law on Supervision of the Financial Market prevents the National Bank from getting involved in disputes arising from legal relations between supervised entities and their clients. These matters fall under the jurisdiction of the courts and other authorities in accordance with separate regulations. (c) There is nothing in the law that prevents private sector, including voluntary consumer protection organizations and self-regulatory organizations to pursue consumer protection. Pursuant to Act No. 634/1992 Coll. on Consumer Protection, the Ministry of Economy contributes, on yearly basis, to the activity of non-governmental consumer organisations based on the submitted projects. The subsidies range from SKK 100,000 to SKK 800,000 for the individual organisations. For the year 2007, six consumer associations were granted a total amount of SKK 2.5 million. Although these associations have a broad mandate in consumer matters they appear to play a very limited role in dealing with financial sector consumer issues, and virtually no role in the pension sector.
Recommendation	The rights of consumers in the pensions sector needs to be explicitly recognized in Law. As the STI is ill-equipped to deal with consumer issues in the financial sector this role should be given to an agency which has the competency and capability to fulfill the role effectively.
Good Practice A.2	***Other Institutional arrangements*** **e. The judicial system must provide credibility to the enforcement of the rules on consumer protection.** ***f.*** **The media and consumer associations ought to play an active role in promoting consumer protection.**
Description	(a) The Civil Code apart from providing broad consumer protection to consumers provides for the enforcement of its provision through the Court process. Customers can obtain general relief under the Civil Code by taking the pension entity to court to seek redress. However the Pensions Law does not create any specific obligation on a pension management company for protecting the rights of consumers and does not create any mechanisms for dealing with consumer issues. b. The media does contribute to consumer protection through improvement in consumer awareness. However, the media has been influenced by conflict of interest issues in the pensions area. It is understood that the media was muted in its criticism of the marketing of the new pensions system because it benefited significantly from the advertising revenue from PFMC's. Specialist financial publications appear to have a greater understanding of pension issues but they have only a limited circulation and are probably not read widely by the general population. The consumer protection associations are not active in the area of financial sector. There are about 30 such associations but commonly plagued by lack of funding. The amount of funding allocated by the Ministry of Finance is not sufficient.
Recommendation	There is a need to develop an alternative dispute settlement mechanism for the financial sector. This could be sponsored by either the government or industry. Such a mechanism would provide reduce the number of customers who have to rely on the regular court system for relieve. The media needs to be actively engaged in the consumer protection and education by the government, regulators and industry. The allocation of funding for consumer protection institutions need to be reviewed with a view to providing sufficient funding. The funding ought to be to further the government's strategy in the consumer protection area.
SECTION B	**DISCLOSURE & 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 information available and provided to the**

	consumer need to inform the consumer of choice of accounts products and services.
Description	The Law No.43/2004 Coll. on Retirement Pension Saving requires the pension management companies to provide an information document which contains the necessary information for a saver to understand the nature of the investment and the risks involved. The document must not contain any misleading information. The document requires the pension management company to outline the type of assets in which it plans to invest, the investment strategy, likely volatility of the investment. The range of investment options is limited to one growth pension fund, one balanced pension fund, and one conservative pension fund. The Law requires saver approaching retirement to more from the growth fund to more conservative options. Given the highly regulated nature of the pension management companies and pension funds the scope to actions which could harm the interest of consumers is limited. However, the events which surrounded the introduction of the new system indicate that there may be scope during the marketing phase to mislead consumers. The Law No.43/2004 Coll. on Retirement Pension Saving requires the pension management companies to calculate daily and to publish weekly in periodicals with a nationwide coverage the value of units in a pension fund and the net asset value of the fund. They must publish fees at least once a month. The pension management company must also create a website which provides details of the financial position of the pension management company. They are obliged to publish semi-annual and annual reports on the company's activities and on the management of assets in pension funds managed by the company. The website must also provide free secured access to the saver to regularly updated data relating to her personal pension account. This data must be updated at least once a week. The Law No. 650/2004 on Supplementary Pension Saving requires a supplementary pension asset management company to draw up and comply with internal regulations, procedures for ensuring the fulfilment of rules of prudent business conduct and rules of activity and procedures for carrying on supplementary pension saving so as to ensure the proper and secure performance of its activity and enable the proper handling of assets in the supplementary pension funds in favour of and in the interest of participants and benefit beneficiaries. The Law requires a supplementary pension asset management company to create a website, which provides details of the company and its management and financial position. It must also publish data on the net value of assets held in the fund, the benefit plans, and information prospectuses of the supplementary pension funds. In addition the supplementary pension fund is required to publish an annual report together with financial statements and an auditor's report. The supplementary pension asset management company must update data on its website at least weekly. The supplementary pension asset management company is obliged to inform in writing a participant at least yearly free of charge of the level of fees it charges and of the level of costs and fees it pays to other parties for the management of the fund and its assets.
Recommendation	No recommendations are presented.
Good Practice B.2	***Formal Product Disclosure*** **j. There must be clear rules on solicitation and issuance of pension products.** **k. Pension entities should ensure their advertising and sales materials and procedures do not mislead the customers.** **l. The pension entity should be legally responsible for all statements made in marketing and sales materials related to their products.** **m. All marketing and sales materials should be easily readable and understandable by the average public.** **n. 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	(a) Solicitation of pension products does not appear to be an issue in Slovakia. Now that the new pension arrangements are in place person can only enter the system when they join the workforce and marketing by pension management companies appears limited. The provision of supplementary pensions typically occurs through a person's employment relationship and hence there is again limited scope for marketing to have an influence. Larger employers typically have a contract with a number of the supplementary pension asset management companies and new employees have a choice among these fund. (b) The Law No.43/2004 Coll. on Retirement Pension Saving says that promotion and advertising is not allowed to use incorrect or misleading information, conceal important facts and offer services not related to pensions. These are further defined in a decree issued by the Ministry of Labor, Social Matters, and the Family No. 440/2004 Coll. dated 16 July 2004, which defines in considerable detail the meaning of incorrect or misleading information, and a service or performance that is not related to retirement pension saving. The Law No 147/2001 on Advertising also apples to pension products. This law stipulates that advertising has to be in compliance with regulations of economic competition (as specified in the Commercial Code) and that it must not be misleading. There is no specific reference to financial products in the advertising law. (c) The Law No.43/2004 Coll. on Retirement Pension Saving requires the pension management company to be responsible for the correctness and completeness of data used in the information document. Following a change in the law only a pension management company can market pension funds. The role of intermediaries and agents has been abolished. The Law No. 650/2004 on Supplementary Pension Saving provides for licensed intermediaries however there role appears limited. (d) The information requirements contained in the Law on Pension Saving suggest that information which must be provided should be clear and understandable. A supplementary pension fund must also have an information prospectus which is similar to that required for pension fund management companies. (e) Both pension fund management companies and supplementary pension funds must prepare an information prospectus.
Recommendation	The law provides considerable detail on the information obligations of both types of pension management companies. The National Bank could be encouraged to provide a template on product disclosure which outlines how companies could provide simple and effective information to clients.
Good Practice B.3	***Special Disclosures*** **r. Pension entities must 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.** **s. Clients must also be provided with meaningful, written information on essential terms of the agreement with the pension entity** **t. Information on planned fee changes must be notified to the consumer a "reasonable period" before the date of change.** **u. Pension entities must inform upfront the nature of any guarantee arrangements covering the pension products.** **v. Customers must be informed upfront on the time, manner and process of disputing information on the statements and transactions.**
Description	(a) and (b) See above (c) The Law No.43/2004 Coll. on Retirement Pension Saving requires a pension management company to advertise in nationwide periodicals proposed changes in fees not later than 30 days before the change occurs.

	(d) A Minimum Return Guarantee has been adopted to avoid major discrepancies among the returns of different PFMC's. The guarantee is mandatory and does not affect choices which the pension fund member needs to make. (e) The pension fund management companies have call centers and websites both of which can be used to make a complaint to the company. However, it is not clear that these make explicit that they outline a clear process for dispute resolution.
Recommendation	PFMC's should be required to make explicit to members any avenues available to them to dispute information on statements and transactions.
Good Practice B.4	***Selling Pension Products*** **a. Marketing personnel and officers selling and approving transactions should have sufficient qualifications and competence, depending on the complexities of the products they sell.** **b. Pension entities must examine important characteristics of the customer such as their age and financial position before recommending a particular pension product.**
Description	(a) There are no longer any legal requirements for the licensing of staff marketing old-age pension saving. As noted above, now that the new pension arrangements are in place person can only enter the system when they join the workforce. The system is compulsory and currently all new employees must join the second pillar system. For these people the decisions to be made are simple and involve only the choice of one of the three investment options – growth, balanced and conservative. Intermediaries who are not employed by the supplementary pension management companies must be licensed by the National Bank. The main requirement is that they have a secondary education. Companies which act as intermediaries must have at least one board members and one managing employee who have completed full secondary education and at least three years' practice in the field of the financial market, or have completed full tertiary education and at least one year's practice in the field of the financial market. (b) This requirement is more relevant for the supplementary pension management companies who are selling additional voluntary pension products. There are no specific requirements in the law for companies to take into account the age and financial position before recommending a particular pension product.
Recommendation	Staff of pension management companies and supplementary pension management companies should be required to meet minimum requirements relating to their understanding of the products which they are selling. For more complex products the requirements should be considerable higher, especially where the intermediary is providing financial advice.
Good Practice B.5	***Disclosure by the Pension Entity*** **f. All pension entities should disclose information regarding their financial position and profit performance.** **g. Regulator or Supervisor ought to publish annual public reports on the developments in, health of, and strength of the pensions industry either as special report or as part of their disclosure and accountability requirement under the law governing it.**
Description	(a) The Law No.43/2004 Cull on Retirement Pension Saving requires a pension management company to publish on its website information about the capital of the company, its statutes, the statutes of pension funds managed by the company and details of the founders and shareholders. It must also publish semi-annual and annual reports on its activities and on the management of assets in pension funds managed by it. The annual accounts must contain an auditor's opinion. The Law No. 650/2004 on Supplementary Pension Saving requires a supplementary pension asset management company to publish similar information. (b) The National Bank does not appear to publish financial data for individual entities in the financial system. In its most recent annual Financial Stability Report the National

	Bank provided an outline of developments in pension savings, including a comment that all pension fund management companies made a loss in 2005. The Report also contained a detailed annex on the new pension savings system.
Recommendation	The National Bank should publish a summary table of the financial position of all pension fund management companies and supplementary pension companies highlighting the asset and liabilities and profit and loss accounts of the companies.
Good Practice B.5	***Contracts*** **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.** **a. There must be cooling-off period associated with any voluntary pension product.**
Description	There is an expectation that the contract with the saver will reflect information provided in the information document and that the saver will fully understand the nature of the arrangement they are entering into with the pension management company. Under thee Law No.43/2004 Coll. on Retirement Pension Saving the Social Insurance Agency is required to establish and maintain the Register of Contracts. The Agency must not enter the contract if it contains incomplete or erroneous information. There are no specific requirements in the law for contracts with supplementary pension management companies. No cooling-off periods are required by law**.** A client may seek a civil remedy if they can demonstrate that they were under pressure to sign a contract.
Recommendation	Cooling-off periods should be introduced for voluntary saving contracts signed with supplementary pension assets management companies**.**
SECTION C	**CUSTOMER ACCOUNT HANDLING AND MAINTENANCE**
Good Practice C.1	**m. 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.** **n. The customer should receive a regular streamlined statement their account that provides the complete details of account activity in an easy-to-read format, making reconciliation easy.** **o. Customers ought to have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period.** **p. When customers sign up for paperless statements, the pension entity must ensure that the consumer is able to read and understand such online statements.**
Description	(a). Customers receive regular statements of account from both PFMC's and SPAMC's. In addition they have access to web-based statements for PFMC's. As these are long-term saving vehicles the provision of this information is adequate to meet customers' needs. (b) As transactions are regular and the fee structure is simple and governed by law, the statement of the customer's account provides a comprehensive picture of the customer's position. (c) As indicated earlier, the pension fund management companies have call centers and websites both of which can be used to make a complaint to the company. However, it is not clear that these make explicit that they outline a clear process for dispute resolution. (d) For PFMC's all customers have access to the website through free secured passive access.
Recommendation	The websites of both PFMC's and SPAMC's should have a clearly identified portal for customer complaints.

SECTION D	PRIVACY & 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	Article 54a of the the Law No.43/2004 Coll. on Retirement Pension Saving provides for the protection of personal information. The Act references the Law No. 428/2002 Coll. on Protection of Personal Data. The exceptions, which typically involving provision of information to supervisory authorities or courts, are clearly stated. The PFMC's indicated that they consider privacy and secrecy very important and ensure compliance with the requirements of the law.
Recommendation	No recommendations are presented.
Good Practice D.2	***Information customer*** **h. Pension entities must inform the consumer of third party dealings for which the pension entity must share information regarding the consumers account.** **i. Pension entities ought to explain how they use and share customers personal information and they must 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.** **j. 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.** **k. The law ought to prohibit the disclosure of information of customers by third parties.**
Description	(a) All of the PFMC's are part of larger financial conglomerates and they seem to have plans to engage in cross-marketing activities of other financial products offered by the group. Contracts which they provide to savers give them approval to share this information. (b) Information is not shared outside the group. (c) The law does not provide customers the option to opt out of information sharing arrangements within the group. (d) The law prohibits disclosure to third parties with some clear exceptions.
Recommendation	Customers should be given the option to opt out of any arrangements for information sharing within a financial group.
Good Practice D.3	***Permitted Disclosures*** **e. The law ought to state specific procedures and exceptions concerning the release of customer financial records to government authorities.** **f. The law ought to provide for penalties for breach of secrecy laws.**
Description	(a) Under Article 90 of the the Law No.43/2004 Coll. on Retirement Pension all individuals who are likely to have confidential information are obliged to maintain secrecy of the fact of which they have become aware in performing their duties. These secrecy provisions apply even when a person no longer works for the PFMC. The obligation to maintain secrecy does not apply to information provided to the Social Insurance Company, the National Bank if used for the purposes of supervision, a court,

	and the tax authorities.
Recommendation	No recommendations are presented.
SECTION E	**DISPUTE RESOLUTION MECHANISMS**
Good Practice E. 1	***Internal Dispute Settlement*** **i. An internal avenue for claim and dispute resolution practices within the pension entity must required by the supervisory agency.** **j. Pension entities should provide designated employees available to consumers for inquiries and complaints.** **k. The pension entity must inform its customers of the internal procedures on dispute resolution.** **l. The regulator or supervisor must provide oversight on whether pension entities comply with their internal procedures on consumer protection rules.**
Description	(a) There is no legal requirement for PFMC's and SPAMC's to have any internal avenue for claims and dispute resolution. (b) Companies become aware of disputes via complaints made through call centers and the website and deal with them on an ad-hoc basis. Because of the tight control and high level of transparency in the system there are a limited number of complaints. (c) Clients are not given information about where they can make a complaint. On 1 February 2007 the National Bank of Slovakia created a department for dealing with consumer complaints. The Bank has indicated that it is taking on this role under existing powers and is not proposing any changes to the Law of to regulations. It can take some action in cases where the behavior of the pension fund threaten its overall stability but cannot interfere interfering with the relationship between a PFMC or SPAMC and its customer, though Section 1 of the law states that "The purpose of supervision of the financial market is to contribute to the stability of the financial market as a whole, as well as it its safe and smooth operation, in the interest of maintaining the credibility of the financial market, **the protection of customers** and the compliance with the rules of Competition.". The National Bank can ask the internal audit function within a pension fund to provide a report as to how the company has dealt with complaints and it can presumably exercise some moral suasion if it feels that companies are failing to treat customers fairly.
Recommendation	The National Bank should require all PFMC's and SPAMC's to provide information to consumers on how to seek a remedy, including redress, for problems arising out of interactions with the companies or their intermediaries. The companies should be required to prepare a policy on internal dispute resolution. The policy should be subject to review by the National Bank as part of its normal supervision procedures.
Good Practice E.3	***Formal Dispute Mechanisms*** **i. 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.**
Description	Given the tight controls which now exist over the pensions system the level of formal complaints and no formal complaints mechanism exists.
Recommendation	The two Industry Associations should develop an alternative dispute resolution mechanism perhaps drawing on experience in the banking and insurance industries.
SECTION F	**GUARANTEE, COMPENSATION SCHEMES AND SAFETY PROVISIONS**

Good Practice F.1	**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.** **h. There should be a basic requirement in the law that pension entities must seek to safeguard pension fund assets.** **i. There should be adequate depository or custodian arrangements in place to ensure that assets are safeguarded.**
Description	(a) Article 61 of the Law No.43/2004 Coll. on Retirement Pension Saving requires the PFMC to execute the management of the assets of the pension fund independently and in the interests of savers and beneficiaries. In managing a pension fund the PFMC is obliged to do so in the best interests of savers and beneficiaries and "in the interests of their protection". It must also act fairly and honestly, with professional care in the performance of its activities. It must avoid conflicts of interest. The term professional care is defined to include managing assets in accordance with the investment strategy and risk profile defined in statute of the fund, by avoiding any risk of financial loss and ensuring that all deals are conducted after due consideration of their benefits. The same provisions are included in Article 34 of the Law No. 650/2004 on Supplementary Pension Saving. (b) Assets of both PFMC's and SPAMC's must be placed with a depository. The depository is required to act with professional care and "exclusively in the interests of the savers".
Recommendation	These basic responsibilities are very comprehensive and provide for strong protection of savers.
SECTION G	**CONSUMER EDUCATION & FINANCIAL LITERACY**
Good Practice G.1	***Use of Mass-media*** **e. Press should be encouraged to actively cover issues related to retail financial products.** **f. Regulators and/or industry association should provide sufficient information to the press to facilitate analysis of related issues.**
Description	(a) The press appears to have a limited understanding of issues relating to pension fund managements and investment. The main-steam press did not appear to play a significant role in identifying and highlighting the mis-selling practices which were apparent during the introduction of the new pension system because of a conflict of interest arising from the fact that they were receiving substantial advertising revenue from the PFMC's. Weekly paper such as Trend seems to take keen interest in financial sector issues but have only limited circulation. (b) Neither the Association of PFMC's nor the Association of SPAMC's has a formal consumer education program. National Bank of Slovakia has a website that publishes information on its activities that can assist the press to analysis and publicize important issues in the financial sector. The National Bank has a media service on its website which provides information about developments in the market. It also covers market developments in its annual Financial Stability Report and annual report.
Recommendation	The National Bank should in put in place a system of consumer alerts to highlight to the press and public any consumer protection issues in the pensions sector.
Good Practice G.2	**Formal Consumer Dissemination and Assistance** **f. The government and regulators ought to put in place formal consumer information dissemination and assistance to improve consumer awareness and knowledge.** **g. Public education on consumer awareness in the area of pensions by non governmental organization ought to be encouraged.** **h. The government should develop a strategy for including financial**

	education as part of the general education curriculum.
Description	(a) Both the Ministry of Labor and the Ministry were involved in an extensive education campaign prior to the introduction of the new pension system in 2005. However these efforts have ceased and there is little material provided to new entrants to the workforce who are entering the new system. (b) There is no evidence of any effort on the part of the government or regulator in providing through a formal channel, consumer awareness or information. (c) There is a very basic program for consumer education in basic and secondary school. The government is involved in work to develop a life-long-learning program which will contain a range of strategies for consumer education. However this is yet to be finalized.
Recommendation	Since financial products are sophisticated, consumers require help in improving their awareness and knowledge level. The government needs to seriously consider having a formal entity to provide information on financial sector to public based on a clear strategy developed in collaboration with the National bank, consumer protection association and industry association. The entity must also be empowered to collect data and provide assistance with inquiries. Steps need to be taken in collaboration with the Ministry of education to include appropriate financial education in the National education system.

Annex I: Examples of Good Practices in Ombudsmen

A financial ombudsman is an important institution of a modern financial system. It provides a mechanism of an out-of court resolution of disputes arising from consumer complaints about services of financial firms. Such mechanism ensures that (i) the courts are not overburdened with small complaints unresolved between consumers and financial firms, thus preserving the efficiency of the court system, and (ii) consumers get a fast and fair resolution of their complaints by impartial and knowledgeable professionals of the ombudsman's office.

To properly serve the financial system by settling financial disputes, a financial ombudsman is expected to be independent, impartial, fair and reasonable – an informal judge of financial complaints. Integrity and professionalism of the ombudsman are its key features required for holding confidence of the firms and consumers alike. The ombudsman should have a compulsory jurisdiction over formally regulated financial firms, and be available to offer the same services to unregulated firms which join voluntarily. Finally, it should have an independent assessor overseeing the ombudsman's quality of service.

The financial ombudsman is a fixture in the financial systems of, for example, the British Commonwealth countries--UK, Ireland, Australia, New Zealand, and South Africa, among others. The UK Ombudsman is particularly well set up and handles a large variety of complaints, covering all segments of the financial system. Its operational experience demonstrates that the amount of consumer complaints increases as the financial products become increasingly complex, spanning various segments of the financial market. For instance, currently, the majority of complaints handled by the UK financial ombudsman are related to mortgage endowments--a product with banking, insurance and pension savings characteristics.

United Kingdom[13]

The Financial Ombudsman Service of the UK (FOS) was established in 2000 by merging six ombudsman services for separate financial sector sectors (banking, insurance, investments, etc.) under one roof and giving the new service a mandate pretty much over the entire financial system. The creation of the integrated FOS was mandated by the Financial Services and Markets Act of 2000 which also established the Financial Services Authority (FSA) – the integrated regulator and supervisor of the British financial system.

FOS is not a regulator. It is an out-of-court alternative dispute settlement service, which is charged to resolve disputes which arise between financial firms and their customers and which cannot be resolved between these two parties amicably.

Most of the firms over which FOS mandate extends are in the so-called compulsory jurisdiction. They are FSA-regulated firms which by law have FOS as the dispute settlement authority where their customers can send their complaints about firm services and products. In addition to the compulsory jurisdiction firms, there are voluntary jurisdiction members of the ombudsman scheme which, by definition, chose to participate in the scheme voluntarily. All firms from both jurisdictions pay levies to support FOS operations – a base general levy, and case fees. Notably for institution building, it was crucially important at the outset of operations of FOS for the new

[13] More information on FOS can be found at http://www.financial-ombudsman.org.uk/default.htm

service to be open and transparent with their constituents – banks, insurance and investment companies – about the budget of FOS and the fee structure. The involvement of these constituents/stakeholders in budgetary discussions, among other, proceeded smoothly, resulting in a quick establishment of trust in FOS by the financial industry.

Sample fees FOS charges its constituents are as follows:

- £0.0059 per deposit account for depository institutions, mortgage lenders, subject to a minimum levy of £100,
- £0.055 per £1,000 of annual gross premium income for general (non-life) insurers, subject to a minimum levy of £100,
- £0.0007 per £1,000 of funds under management for fund managers, subject to a minimum levy of £100,
- Flat fee of £50-75 for credit unions, corporate finance advisers, operators/ trustees/depositories of collective investment schemes, etc.
- Case fees of £360-475 for the third and subsequent standard/special cases, respectively

What makes FOS likely the best established financial ombudsman in the world – in one of the largest and most sophisticated financial markets? The FOS has a well structured and clear legal foundation, objectives, values, and principles of operation – and implements them in a superb fashion. In a summary, FOS was set up by law as an independent public body, with a mandate to resolve individual disputes between consumers and financial services firms--fairly, reasonably, quickly and informally. FOS is neither a consumer champion nor an industry trade-body. It is completely independent and deals with disputes fairly and impartially. It focuses on the facts of each complaint--not at how well people present their case, so no one should need any special expertise or professional help in order to bring their complaint to FOS.

FOS aims to give clear, jargon-free reasons for its decisions--so that any fair-minded person can understand why FOS reached a particular conclusion. It helps consumers and firms settle disputes without the need for FOS involvement – and to try to help prevent the need for complaints in the first place. FOS service is an informal alternative to the courts, aimed to be free of rigid procedures and be as flexible as possible in its approach.

Germany

Based on the principle that conciliation is better than litigation, Germany's private commercial banks voluntarily introduced an out-of-court conciliation procedure. The Ombudsman Scheme was established in 1992 under the auspices of the German Banks Association (GBA) to settle disputes between banks and their customers as quickly and smoothly as possible. The Ombudsman Scheme is the centerpiece of the private commercial banks' consumer policy concept, which rests on three pillars: prior information, transparent contract arrangements and out-of-court dispute-resolution facilities. The impartiality of the scheme is reflected in a large number of consumer complaints resolved in banks' favor.

The Ombudsman Scheme has been a successful alternative (out-of-court) dispute resolution scheme from the start, with the number of cases growing each year. The Ombudsmen are five respected former judges and judicial system officials, selected by the GBA, with a no-objection input from consumer protection organizations. The Ombudsman Scheme's activity is delineated in the Rules of Procedure, which were approved by the German Federal Ministry of Justice.

The benefits of this modern dispute-resolution scheme, in the words of the GBA, are obvious. The scheme is free of charge to bank customers, and presents no risks for them. If they do not accept the Ombudsman's decision, they are still free to go to a court of law. The banks are obligated to accept the Ombudsman's decisions in disputes involving amounts up to € 5,000. Experience has shown that banks also usually accept the Ombudsman's decisions against them even where disputes involve amounts exceeding € 5,000. The complaint resolution procedures are widely accepted, effective, quick, and non-bureaucratic.

One valuable consequence of the introduction of the Ombudsmen Scheme is that most private commercial banks have set up schemes of their own to handle customer complaints. These in-house complaint-settlement schemes have been a success. A large number of complaints are handled and resolved by the banks and do not need to be settled by an ombudsman. In many cases, easy-to-understand information on banking procedures or complex, abstract banking transactions takes care of any supposed disputes in advance. For more information, see www.bankenverband.de.

Annex 2: EU Framework for Consumer Protection in Financial Services

Articles 153 and 95 of the Treaty establishing the European Community have set out the requirement for a high degree of consumer protection as a necessary feature of a genuine EU-wide internal market. Food safety, public health and consumer protection issues are covered by a single Directorate-General within the European Commission. On 7 May 2002, the European Commission adopted a new Consumer Policy Strategy specifying its overall political approach for the five year period, 2002-2006.

Many of these focus on providing consumer protection through regulating the competence and financial strength of the providers. Others, such as the Consumer Credit Directive, aim at making it easier for consumers to make well-informed choices.

The European Consumer Consultative Group was established by the Commission in 2003 in order to constitute a forum of general discussions on problems relating to consumer interests and consumer protection, to advise and to guide the Commission when it outlines policies and activities having an effect on consumers, to act as a source of information and sounding board on Community action for the other national organizations.

Sales Practices and Disclosure

The legal base for future implementing measures are (a) Article 7 of Prospectus Directive 2003/71/EC, in conjunction with Article 35 (5) of Commission Regulation (EC) No 809/2004 implementing this provision in respect of disclosure of information prior to the admission of securities to a regulated market/prior to a public offer of securities, as well as (b) Article 19 (3a) of the Transparency Directive. Both the Prospectus and the Transparency Directive follow the four-level approach:

- essential principles,
- implementing measures,
- co-operation and
- enforcement.

Financial Market Abuse Directive 2004/72/EC obliges the issuers to carry out any disclosure/notification of transactions in accordance with the rules on transfer of personal data laid down in Directive 95/46/EC on the protection of individuals with regard to the processing of personal data on the movement of such data. The Directive also requires that the competent authorities in the Member States publicly disclose their decisions regarding the acceptability of the market practice concerned, and also transmit their decisions as soon as possible to the CESR which makes them immediately available online. All the transactions related to shares admitted to trading on a regulated market or to derivatives or other financial instruments linked to them have to be notified to the competent authority in the Member State.

UCITS Directive 2004/611/EEC, as amended provides the framework for the establishment and operation of collective investment undertakings in tradable securities. It requires the use of a custodian for each undertaking as the primary investor/ consumer protection vehicle. The custodian holds the customer assets and monitors the activity of the asset manager for the undertaking, or investment company for self-managed undertakings, to verify that actions taken are in compliance with the undertaking rules and in the best interests of investor/consumers. The

EU has issued a Green Paper on the Enhancement of the EU Framework for Investment Funds to improve the EU regulatory structure in the industry. COM(2005) 314, 12-7-2005.

The Transparency Directive 2004/109/EC establishes requirements in relation to the disclosure of periodic and ongoing information about issuers whose securities are already admitted to trading on a regulated market situated or operated within a Member State[14]. Greater disclosure in the financial accounts is a part of the Financial Services Action Plan. The issuer has to make public its annual financial report at the latest four months after the end of each financial year and has to ensure that it remains publicly available for ate least five years /together with the audit report/. The issuer has to disclose the total number of voting rights and capital at the end of each calendar month during which an increase or decrease has occurred. Moreover, the issuer must make public without delay any changes in the rights attaching to the various classes of shares and derivatives.

Directive on Distance Marketing for Consumers of Financial Services 2002/65/EC. This Directive adopted in 2002 lays down common rules for selling contracts for credit cards, investment funds, pension plans, etc. to consumers by phone, fax or internet. The Directive fills the "legal gap" in existing consumer protection legislation, left by the exclusion of financial services from the 1997 Directive on distance selling. Its main features are:

- the prohibition of abusive marketing practices seeking to oblige consumers to buy a service they have not solicited ("inertia selling");
- rules to restrict other practices such as unsolicited phone calls and e-mails ("cold calling" and "spamming");
- an obligation to provide consumers with comprehensive information before a contract is concluded; and
- a consumer right to withdraw from the contract during a cool-off period--except in cases where there is a risk of price fluctuations in the financial market.

"Distance marketing" means selling by telephone, fax, proprietary computer networks and the internet. A Directive regulating the distance selling of (all other) goods and services was adopted in 1997 and entered into force in 2000 (Directive 97/7/EC). Financial services were excluded from its scope since they were considered to require a separate set of rules.

Based on the Directive, sellers of financial services and products are obliged to provide consumers with a comprehensive package of information before a contract is concluded. This package should include the identity, contact details etc. of the supplier, the price and payment arrangements, contractual rights and obligations as well as information about the performance of the service offered. Information on the technical quality and nature of the financial service must be also provided in accordance with the rules of the "vertical" directives on credit, insurance and investment services or with relevant national rules for services not currently subject to EU legislation.

Comparative Advertising Directive. The EU has adopted Directive 97/55/EC of October 6, 1997, amending Directive 84/450/EEC of September 10, 1984 concerning misleading advertising, to include provisions regarding the conditions under which comparative advertising is permitted. The Directive defines "Comparative Advertising" as any advertising which explicitly or by implication identifies a competitor or goods or services offered by a competitor. Comparative advertising is permitted only when:

[14] Does not apply to units issued by collective investment undertakings other than the closed-end type.

1) it is not misleading;
2) it compares goods or services meeting the same needs or intended for the same purpose;
3) it objectively compares one or more relevant features of those goods and services;
4) it does not create confusion in the marketplace between the advertiser and a competitor's trademark, trade name or products;
5) it does not discredit or denigrate a competitor's trademark, trade name or products;
6) it does not take unfair advantage of the reputation of a competitor's trademark or trade name; and
7) it does not present goods or services as imitations or replicas of goods or services bearing a protected trademark or trade name.

Any comparison referring to a special offer must clearly indicate the date on which the offer begins and ends or, where appropriate, that the special offer is subject to the availability of the goods or services.

Although the Directive does not preclude Member States from providing more extensive protection with regard to misleading advertising, they may not enact more stringent requirements with regard to mere comparison of products.[15]

Consumer Credit Directive. The Consumer Credit Directive, adopted in 1987 aims to create an environment where consumers are sufficiently protected throughout the EU, so that they can carry out cross-border transactions with confidence. This Directive was amended in 1990 and 1998. It is based on minimum harmonization, which means that Member States are obliged to implement at least the provisions contained in the Directive. However, they may also maintain or introduce stricter rules in favor of consumers.[16]

Directive on Unfair Business-to-Consumer Commercial Practices. Directive 2005/29/EC on Unfair Commercial Practices was signed by the European Parliament and the Council on 11 May 2005. The Directive, which was proposed by the Commission in June 2003, aims to clarify consumers' rights and boost cross-border trading by harmonizing EU rules on business-to-consumer commercial practices. The new legislation outlines "sharp practices" which will be prohibited throughout the EU, such as pressure selling, misleading marketing and unfair advertising. Certain rules on advertising to children are also set out. Through this legislation, EU consumers will be given the same protection against aggressive or misleading marketing whether they buy locally or from other Member States' markets. Businesses will benefit from having a clear set of common EU rules to follow, rather than a myriad of divergent national laws and court case rulings, as is currently the case.

The Directive was published in the Official Journal on 11 June and its provisions must be applicable in the Member States within two and a half years of its publication. The Commission works with the Member States and all the relevant stakeholders to make sure that the Directive is transposed into national law in a timely and accurate manner.[17]

[15] For more information, see http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31997L0055&model=guichett
[16] See http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31987L0102&model=guichett
[17] See http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/ l_149/l_14920050611en00220039.pdf

Customer Account Handling and Maintenance

Directive on Markets in Financial Instruments 2004/39/EC (MiFID). This Directive is a central component of the Financial Services Action Plan, and confines itself to setting out the general high-level obligations which Member State authorities should enforce. It aims to allow investment firms, banks and exchanges to provide their services across borders on the basis of their home country authorization, and seeks to bring closer into line national rules on the provision of investment services and the operation of exchanges, with the ultimate aim of creating a single European "securities rule book." The Directive is designed to enhance investor protection, including by setting minimum standards for the mandate and the powers national competent authorities must have at their disposal and establishing effective mechanisms for real-time cooperation in investigating and pursuing breaches of the Directive. The Directive maintains the principle of a pre-trade transparency obligation whereby "internalisers" (i.e. firms trading outside regulated markets) would be obliged to disclose the prices at which they will be willing to buy from and/or to sell to their clients. However, it limits this disclosure obligation to transactions up to "standard market size", defined as the "average size" for the orders executed in the market. The Directive also includes a set of protective measures for "internalisers" when they are obliged to quote, so that they can provide this essential service to their customers without incurring undesirable risks. More detailed implementing measures will be set down by the Commission, following consultations with market participants and Member States, and taking into account advice from the Committee of European Securities Regulators (CESR).[18]

Privacy and Data Protection

Directive on Personal Data and Privacy. The Directive on Personal Data and Privacy (95/46/EC) regulates the processing of personal data, regardless if the processing is automated or not. The Directive defines Personal data as "any information relating to an identified or identifiable natural person ("data subject"); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;" (art. 2 a). Processing is defined as "any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;" (art. 2 b). The Directive leaves the responsibility for compliance with the "controller", which is defined as the natural or artificial person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data. The rules that are outlined in the Directive are applicable both to controllers established within the EU as well as outside controllers that use equipment situated within the EU in order to process data.[19]

Dispute Resolution Mechanisms

FIN-NET. The European Commission launched on 1 February 2001 an out-of-court complaints network for financial services to help businesses and consumers resolve disputes in the Internal Market rapidly and efficiently by avoiding, where possible, lengthy and expensive legal action.

[18] See http://europa.eu.int/eur-ex/pri/en/oj/dat/2004/l_145/l_14520040430en00010044.pdf
[19] See http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:EN:HTML

This network, called **FIN-NET**[20] has been designed particularly to facilitate the out-of-court resolution of consumer disputes when the service provider is established in an EU Member State other than that where the consumer lives. The network brings together more than 35 different national schemes that either cover financial services in particular (e.g. banking and insurance ombudsmen schemes) or handle consumer disputes in general (e.g. consumer complaint boards). Both on- and off-line services are covered. This work is based on the Commission Recommendation 98/257 of 1998 on the principles applicable to the bodies responsible for settlement of consumer disputes. Out-of-court dispute settlement schemes for financial services take various forms in different Member States. Sometimes there exists a central scheme at the national level--sometimes schemes are regional or even local. Some of the schemes are public and some are private. Also the status of the decisions varies from mere recommendations for both parties (for examples the National Consumer Complaint Board in Sweden and the reclamation service at the Bank of Spain) to decisions which bind the service provider (for example in most private banking ombudsman and insurance ombudsman schemes). FIN-NET is the first fully functioning cross-border ADR network in the EU. In September 2002, the European Commission has published a new consumers' guide to FIN-NET, which is available in all eleven official languages.

ECC-NET. FIN-NET complements the **ECC-NET** (European Extra-Judicial Network, more at www.eejnet.org) which establishes a more general network of ADRs notified to the Commission by Member States as applying core principles (contained in Commission Recommendation 98/257/EC) to guarantee their fairness and effectiveness. The EEJ-Net, launched by the Commission in May 2000 provides a communication and support structure made up of national contact points (or "Clearing Houses") established by each Member State[21].

To help consumers and businesses (also in financial services) deal with problems that may arise in exercising their Single Market rights, the Commission has also published a useful guide "Enforcing your rights in the Single European Market." The guide and the relevant national Fact sheets give comprehensive information on how to seek redress, including details of national out-of-court settlement systems. This guide is available though the "Dialogue with Citizens" website at europa.eu.int/citizens.

Guarantee and Compensation Funds

Directive on Deposit Guarantee Schemes 94/19/EC. The Deposit Guarantee Schemes Directive (94/19/EC) obliges all Member States to set up compensation schemes for depositors. It establishes a minimum guarantee level of €20,000 whereby should a bank fail, depositors throughout the EU would be guaranteed to receive their money back up to that amount. However some Member States have introduced higher guarantee thresholds, and the manner in which the schemes function in practice has also not been converged. The Commission has recognized that differences in deposit guarantee schemes may prove problematic in the case of pan-European banking structures, but also more generally in the face on an increasing tendency towards EU integration of the banking market, these differences may inhibit the development of a sound framework for cross-border groups from competition and financial stability perspectives.[22]

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[20] See http://ec.europa.eu/internal_market/finservices-retail/finnet/index_en.htm

[21] The network deals with any disputes between a consumer and a business over goods and services, such as problems over delivery, defective products. However, is complemented by FIN-NET which is a dedicated network dealing exclusively with consumer complaints about financial services.

[22] See http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&numdoc=31994L0019&model=guichett&lg=en

Directive on Investor Compensation Schemes 97/9/EC. Directive 97/9/EC, known as the Investment Compensation Scheme Directive (the ICD), and the national measures implementing it in the EU Member States are important regulatory mechanisms. They aim to protect investors against the risk of losses in the event of an investment firm's inability to repay money or return assets held on their behalf. The Directive establishes some basic principles, provisions and definitions and gives member States leeway to implement it in the way they find most suitable for their own situation. The directive lays down certain basic requirements for national investor compensation schemes in order to provide a harmonized minimum level of investor protection across the EU. It is left to each Member State to implement an appropriate scheme and to determine the most suitable way of organizing and financing such schemes. Thus, while all EU Member States have implemented the ICD, the manner in which the directive has been interpreted and applied varies quite considerably.[23]

Consumer Education and Financial Literacy

Article 153 of the Treaty establishing the EU acknowledges the consumer's right to education and information in all the fields. Education is an area for which Member States are primarily responsible, at national, regional or local level. This applies equally to consumer education and, to some extent, to consumer information.

The European Commission's role is to complement Member States' activities in these areas and facilitate co-operation between Member States. The aim is to empower consumers by reinforcing their knowledge, skills and confidence.

Inter-active Consumer Education Project

In general, the European Commission has developed, in co-operation with the higher education world, a web-based consumer education platform called **Dolceta** (this includes financial services). This is targeted at trainers and other multipliers in consumer education as well as the "informed" consumer. The learning tools that are developed in this context go beyond the simple provision of general information, to include learning exercises and other interactive material.

The first phase of this long-term education project is aimed at adult education. EUCEN (the European Universities Continuing Education network) has developed two interactive on-line consumer education modules on the following topics, to be used in adult education:

- basic consumer rights, the advantages of the internal market and redress possibilities in case of problems; and
- financial services (comparing prices, asset allocation, understanding products and services, etc.).

These modules focus as far as possible on the cross-border aspects of each of the topics and the approach is the pragmatic "problem solving" method recommended by adult education practitioners. They will have to take into account and complement possible existing national/international consumer education projects. Subject to a positive evaluation of the web tools, it could be decided to expand the operation to more traditional areas of education, i.e. school and university education.

[23] See http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31997L0009&model=guichett

European Consumer Centers

The European Consumer Centers Network (ECC-network) is an important interface between the Commission and European consumers. The role of the network is to help European consumers understand better how to make the Internal Market work for them and to provide advice if they encounter a problem. An additional important task of the network is to provide the European Commission with important "grassroots" information on consumer concerns.

The Commission's aim is to have at least one ECC in every Member State. Today, Decks operate in 26 European countries. The ECC in Slovakia operates under the Ministry of Industry and Trade. Besides the tasks to inform consumers about the opportunities offered by the Internal Market and to assist them in pursuing cross-border complaints, the ECCs co-operate with each other and with other European networks such as FIN-Net (see below), and also conducts cross-border comparisons of such things as prices, legislation and other issues of consumer concern.

Training Courses for Staff of Consumer Organizations

The Commission has launched a training project to strengthen the capacity of consumer organizations. Training courses for staff members from all consumer organizations are organized by BEUC (Bureau Européen des Unions de Consommateurs, or the European Consumer's Organization, at www.beuc.org) in 3 areas: management, public relations and lobbying, as well as EU consumer law.

New Initiatives in Mortgage and Consumer Lending

Mortgage Credit Green Paper COM(2005)327. In 2005, the Commission issued the Green Paper[24] launching a debate on harmonizing the rules on mortgage credit in the EU. The consultations, drawing a large number of responses from a variety of stakeholders in all member countries ended in late 2005 with a public hearing which gave pointers for the future work of the Commission in the mortgage credit area.

The underlying idea of more integration and harmonization in the EU mortgage market is that more cross-border activity and competition in the EU mortgage market could increase consumer choice and reduce costs. The consultation was launched to assess whether Commission action can help to bring about these improvements in choice and value in the EU mortgage market.

The Green Paper looks at whether and how Commission action to develop the Internal Market in mortgages could provide concrete benefits for EU consumers. It touches on a variety of topics, including but not limited to: (i) consumer advise by mortgage lenders on the appropriateness of mortgage products, (ii) harmonization of EU standards for information about mortgages, and the APR in particular, (iii) for rules on calculating interest and for fees for switching mortgage loans, (iv) cross-border lenders' access to information in other countries on potential borrowers' credit histories, property valuations and land registers be improved, to encourage them to do more cross-border business, and (v) expansion of non-bank mortgage lenders which would increase competition in the market.

[24] See http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0327:EN:NOT

Proposed Consumer Credit Directive (CCD) 87/102/EEC. The European Commission adopted in September 2002 a proposal for a new directive on consumer credit. The existing EU-wide rules from 1987 have not kept pace with the important evolution in this sector and, at the same time, only set minimum standards. They have largely been overtaken by national regulation. The absence of common rules reduced cross-border transactions and led to differences in consumer protection in Member States.

New EU-wide rules for consumer credit, as proposed, would be expanded to modern forms of consumer credit today. Borrowers would gain improved transparency on products (costs, terms and conditions) and can more easily compare offers on a cross-border basis. Lenders would gain improved opportunity to assess borrower risk, but in return they will be subject to "know thy client" obligations before granting any credit. Consumers would also have the right of withdrawal within 14 days, free of charge and without justification (a contentious issue--the Directive on Distance Selling talks about 7 days; the industry wants 3 days). Harmonized consumer credit rules throughout the Union would not only increase the protection of consumers across borders but also their confidence and thus strengthen the functioning and the stability of the consumer credit market in the European Union.

Implementation of the new CCD remains a contentious matter. The original proposal of the Commission for the new CCD was made in 2002 and, considered as too prescriptive and too rigid by the financial industry, drew a lot of suggestions for amendments from the European Parliament, European Council, and the stakeholders. After lengthy consultations and the first modified proposal in 2004, the EC issued the second modified proposal in late 2005 which is yet to be adopted by the European Parliament and the Council.[25]

[25] See http://ec.europa.eu/consumers/cons_int/fina_serv/cons_directive/index_en.htm

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