



## Online Seminar: FCP Act and Its Implementation

*Jointly organized by International Academy of Financial Consumers (IAFICO),  
KDI School of Public Policy and Management, Consumers Union of Korea,  
Korea Real Estate Analysts Association, and Finance & Happiness Network*

*Date: June 18, 2021*

*Zoom Information: <https://bit.ly/3z5Lv3D>*

*(ID:932 2121 4183 / PW:237527)*

*Legal and Regulatory Requirements for Financial*

*Consumer Protection:*

*In Search of the Best Implementation Practices*

## **Seminar Program**

### **Background**

Protecting consumers' right and interest in the financial markets, henceforth to be termed as Financial Consumer Protection (FCP), has been receiving a growing attention globally since the recent financial crisis. Over the last decade, there were global efforts in this regard, as evidenced by such legislations as the Dodd-Frank Wall Street Reform & Financial Consumer Protection Act of 2010 as well as those "good" (not necessarily the best) practices suggested by G20 (2010), OECD (2011), the World Bank (2012), and EU (2014) and (2019). However, as it appears, the global community is still in search of the best practices in designing and implementing FCP policy measures that are effective in changing behavioral patterns of market participants. Through this online seminar organized by IAFICO (the International Academy of Financial Consumers), we plan to offer a forum to share international experiences on three particular aspects of the FCP policy – duty to explain, principles of affordability or appropriateness, and internal control measures – by focusing on their implementations on the viewpoint of fair and ethical treatment of financial consumers. In particular, two issue papers will be presented to summarize the Korean the current state in implementing the FCP Act of 2020 in Korea, one focusing primarily on the supply-side issues (in the financial markets) and another mostly on the demand-side issues. The presentations will be followed by the panel discussion session, in which the representatives of the regulatory agencies in four countries – Germany, Italy, Korea, and USA – will share their experiences in implementing the similar FCP policies and three topical experts, our IAFICO colleagues, will also discuss different aspects of the policies in question.

### **Seminar Outline**

#### **Welcoming remarks**

(09:30 ~ 10:00, in Seoul; Through the zoom link in the above)

- Ms. Junghwa KANG, President, The Voice of Consumers, Korea
- Mr. Man CHO, Chairperson, IAFICO (the International Academy of Financial Consumers)

## **Presentations of the issue papers**

(10:00 ~ 10:50, in Seoul)

- Mr. Dong Won KO, Professor, Sung Kyun Kwan University, Korea: “Implementation of the New FCP Provisions in Korea: Focusing on the Supply-Side Issues”<sup>1</sup>
- Mr. Chul CHOI, Professor, Sookmyung Women’s University, Korea: “Implementation of the FCP Act in Korea: Focusing on the Post-Implementation and Demand-Side Issues”

## **Panel discussion session**

(11:00 ~ 12:40, in Seoul)

- Moderator: Mr. Man CHO, Professor, KDI School, and Chairperson, IAFICO
- Panel Discussants:
  - Ms. Melissa KNOLL, Section Chief, Decision-Making and Behavioral Studies, Consumer Financial Protection Bureau (CFPB), USA
  - Ms. Paola SOCCORSO, Senior Economist, CONSOB, Italy
  - Mr. Robert ELSEN, Federal Financial Supervisory Authority (BaFin), Germany
  - Mr. Yeonggeun KIM, the Financial Services Commission (FSC), Korea
  - Mr. Andy Schmulow, Professor, School of Law, The University of Wollongong, Australia
  - Ms. Woon Young JUNG, Chairperson, Finance&Happiness Network, and Ombudsman, FSC, Korea
  - Ms. You Kyung HUH, Attorney and Director, Consumers Korea, Korea

(Format: About 10 minutes’ discussion by each person, followed by a group discussion)

- Logistics: A simultaneous interpretation service will be provided through Zoom (Korean to English, and vice versa).

## **Attachment**

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<sup>1</sup> The presentation will focus on two particular topics: (1) ex ant – or before point-of-product-sale – principles of product sale (e.g., duty to explain, and suitability & appropriateness principles, among others); and, (2) internal control measures (e.g., KPIs & other mechanisms to ensure fair and ethical treatment of financial consumers). See Attachment for descriptions of the six principles promulgated by the Financial Consumer Act of 2020 in Korea.

## Attachment (IAFICO, June 10, 2021)

### Six Product Sale Principles (as promulgated by the FCP Act in Korea)

The Korean congress passed the FCP Act of 2020 in March (to be in effective in March 2021) after a long delay since 2011 when the bill was first introduced. As to some specifics, the law defines four product types – (1) deposit-type products (e.g., time or demand deposits and installment deposits), (2) loan-type products (e.g., loan instruments, credit card receivables, installed payment products), (3) investment-type products (e.g., securities –stocks and bonds, and financial derivative products), and (4) insurance-type financial products (e.g., life insurance products, and casualty insurance products), and three types of service providers - (1) direct sellers, (2) agents or brokers for selling financial products, and (3) independent financial advisors (IFA) as a new business category. One spirit introduced by the law is “the same-function-same-regulation” principle: that is, as long as financial institutions selling financial products or providing financial advice engage in the same activities or conduct, same regulations should apply to all financial institutions, regardless of their types and of the products sold, which represents a departure from the previous subsector-specific regulation (e.g., banking, insurance, securities, credit cards, and mutual savings). As another notable attribute, the law introduces the following six principles for business conduct, which are applied slightly differently to different products, intermediaries, and consumer segments (as shown in Table 1).<sup>2</sup>

Table 1. Business conduct principles as promulgated by FCP Act of 2020 in Korea

Principle	Product applied	Service provider applied	Consumer applied
Suitability Rule <sup>a</sup>	Insurance type Investment type Lending type	Financial product sellers; Financial advisors	Only to unsophisticated financial consumers, not to accredited financial consumers
Appropriateness Principle <sup>b</sup>	Insurance type Investment type Lending type	Financial product sellers	Only to non-accredited financial consumers
Duty to Explain <sup>c</sup>	Insurance type Investment type Lending type Deposit type	Financial product sellers; Financial advisors	Only for unsophisticated financial consumers
Prohibition of Unfair Business Activities <sup>d</sup>	Lending type (Possibly extending to other products)	Financial product sellers; Financial advisors	To all financial consumers
Prohibition of Unfair Recommendation Activities <sup>e</sup>	Insurance type Investment type Lending type Deposit type	Financial product sellers; Financial advisors	To all financial consumers
Fair and Clear Advertising <sup>f</sup>	Insurance type Investment type Lending type Deposit type	Financial product sellers; Financial advisors	To all financial consumers

<sup>2</sup> This paragraph is quoted from CHO, Man, and PARK Soojin, 2021, “Financial Consumer Protection in the Era of Digital Transformation: A critical survey of literature and policy practices,” KDI School Working Paper.

- a. Suitability rule: Prohibition to recommend financial products that are not suitable to financial consumers when taking into account their assets or income, investment experiences, or creditworthiness<sup>3</sup>
- b. Appropriateness principle: Requirement to notify financial consumers of the inappropriateness and then obtain their confirmation, if financial products that they want to purchase are believed to be unsuitable for them (taking into consideration of the same factors as a)
- c. Duty to explain: Requirement to explain details of financial products including the interest rate or its change and prepayment penalties in case of loan-type financial products, when recommending financial products to consumers or when being asked by consumers to do so
- d. Prohibition of unfair business activities: Prohibition to conduct unfair business activities, e.g., forcing financial consumers to execute contracts against their will or requiring unfair collaterals in relation to executing contracts in cases of loan-type financial products, and infringing on rights of financial consumers
- e. Prohibition of unfair recommendation activities: Prohibition to provide unfair recommendations in selling or providing advice on financial products, e.g., misrepresenting the contents of financial products, providing misleading information on financial products, describing only favorable information on financial products, and comparing with other financial products without any objective grounds or without disclosure of comparison standards on financial products
- f. Fair and clear advertising: Requirement to make advertising on financial products fairly and clearly, without misleading financial consumers' understanding; Also prescribing certain elements to be listed in the advertisements, e.g., contents of financial products, names of financial product sellers or advisors, investment risks in case of investment-type financial products, and terms of loans in case of loan-type financial products

## Sample questions to be posed

- On the duty to explain:
  - What are effective ways to communicate details of financial products (their risk-return profiles in particular) with consumers?
  - Should this principle and its implementation practices be applied in a same fashion to all types of financial products (e.g., deposit-type, loan-type, investment-type, and insurance-type) as well as to different consumer types?
  - Should there be any difference between online vs. offline sales in implementing this principle?
- On the affordability and appropriateness principles:
  - What are good (or the best) practices in defining the affordability or appropriateness of particular products to different consumer segments?

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<sup>3</sup> The descriptions of the principles are paraphrased those in Ko, D.W., 2020 "Policy Framework for Financial Consumer Protection in Korea: Focusing on the Financial Consumer Protection Act of 2020," The International Review of Financial Consumers, Vol. 5(2).

- Should this principle be applied differently to different consumers (e.g., sophisticated vs. non-sophisticated consumers)? If so, how?
- To what extent should a risk-based consumer segmentation be related in implementing this principle?
- On the internal control measures:
  - What internal control measures are shown to be effective for the purpose of advancing FCP?
  - What role can the training of FI employees (on business ethics and other topics of relevancy) play in aligning their behavior with the FCP policy objectives?
  - To what extent should CEO and other executives of FIs be responsible if and when the sale is proven to be incomplete after POS (Point-of-Sale)?