Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Consumer Protection Code Review

Circle Internet Financial Response

Response Information

I am completing this form as:

An organisation or representative body

What is the name of your organisation or representative body?

Circle Internet Financial

Please specify your organisation/representative body type.

Financial service firm or group

Broad Theme A – Availability and Choice

Q.1 What are your views on availability and choice of financial services and products for consumers?

Questions 1-3 of theme A are answered jointly.

Consumers achieve advantages when they have choices across a variety of service providers that are in vigorous competition with each other. Promoting new products is equally as important as preventing consumer harm, because by encouraging competition, consumers can benefit from a wider range of options and improved quality of services. The Central Bank of Ireland should consider adopting a formal "competitiveness" objective. Promoting a globally competitive financial services sector in Ireland will fuel economic growth while ensuring that its consumers can choose the best financial products and services for their personal needs.

Vigorous competition at every level of the financial services stack is a key benefit of public blockchains, which disaggregate the provision of wallet and network services and enable competition while maintaining interoperability. For example, users of public blockchains can use a digital currency issued by Circle without being forced to use a wallet provided by Circle or rely on Circle for transaction validation. Instead, they can choose which individual product they like best - and seamlessly switch if they are unhappy with their choice.

New technology may also address long standing problems in financial services such as financial exclusion and predatory lending. Traditional banking business models make money by transforming deposits into loans, but when a customer is not a strong source of deposits, it may not make sense for a bank to serve that customer. Under or un-banked consumers are forced to seek out alternative financial services providers who may charge high fees and APRs.

Digital assets function differently because safe custody of value does not need to be linked to lending. In its most basic form, consumers have the option to self-custody digital assets, a service which is free. To do this, consumers need only to remember or store a seed phrase and password, paired with a personal wallet. This may be the right solution for some consumers that are sceptical of traditional financial services providers.

Digital asset payments are increasingly lower cost as well. Public blockchains are open and permissionless, which allow anyone to read or write to the common ledger provided they pay a market-based fee to do so. This contrasts with legacy payment systems, which can only be accessed through a bank or other private financial institution. The closed structure increases overhead costs, contributing to the structural economics that exclude many people from the financial system.

The low-cost nature of basic custody and payments means that even custodied solutions – which Circle believes are more user friendly and likely to be preferred by the majority of digital asset users in the future – are more accessible than typical bank accounts. Involuntary, opaque fees and minimum balance requirements in the traditional banking system can pose problems to end users and push many people out. These minimum requirements typically don't exist with digital asset service providers who are able to offer low-fee custody solutions. In situations where the banking system has not solved certain problems after decades of trying, giving consumers a new choice may be the solution.

Q.2 How important are new providers and new delivery channels to serving consumers' financial needs?

Q.3 In implementing its consumer protection mandate, how should the Central Bank reflect the importance of competition in its regulatory approach?

Broad Theme B – Firms Acting in Consumers' Best Interests

Q.4 Do you agree that the Central Bank should develop guidance on what it means for a firm to act in the best interests of its customers?

Agree

Q.5 Does the suggested outline of 'customer best interest' guidance capture the essence of the obligation to act in customers' best interests? What other guidance would you suggest?

Not Sure

Questions 4-5 of theme B are answered jointly.

Circle agrees that supervisory guidance on what it means for a firm to act in the best interest of its customers is helpful for industry participants. In general, but for the digital asset industry in particular, any guidance should be based on a rigorous and clearly defined taxonomy of asset types and a clear understanding and distinction of market activities. For example, a brokerage activity introduces a different set of risks and incentives compared to custody of assets. Any industry guidance should take the different asset types, activities, risks and incentives into account.

Theme 1 – Innovation and Disruption

Q.6 Do you agree with our proposed approach to enhancing our Innovation Hub?

Yes

Circle believes that financial services companies, particularly those offering novel financial products and services, should be incentivised to engage with the Central

Bank before a formal application stage. Circle strongly supports engagement between regulators and market participants before a formal supervisory relationship, and productive exchange between regulators and potentially-supervised entities should be strongly encouraged. For this reason, the enhancements that the Central Bank has proposed to its Innovation Hub will be a vital and important component to provide regulators insight into these new products and services, and to allow innovations that can benefit consumer choice to take hold. For digital assets innovation, the Central Bank could consider an approach that includes a "regulatory sandbox" where digital assets firms can work with regulatory and supervisory authorities to test novel technologies and approaches with industry. Circle believes that such an approach would also bolster the skillset of regulators with technical knowledge and expertise to understand and respond to novel technologies.

Q.7 What more should be done to support innovation while ensuring consumers' best interests are protected?

As the issuer of reserve-backed, tokenised cash products (sometimes referred to as a "stablecoin"), Circle has consistently advocated for robust protections to protect consumers, ensure financial stability, and fight illicit finance. Sensible legislation and regulation will move crypto-related markets from a speculative phase to one where utility value is created through the use of digital assets for businesses and consumers. Circle is supportive of provisions in the European Union's upcoming Markets in Crypto Assets (MiCA) legislation related to the risks to consumers posed by speculative activity in newly launched assets in token-form, as well as new standards imposed on the marketing of these novel financial products. New market entrants, particularly in the nascent field of digital assets, must be held to high consumer protection standards.

The Central Bank should also consider how to appropriately balance the application of existing financial regulation and the creation of new financial regulation with regard to novel financial products and services, like digital assets. Blockchain-based payment systems, of which Circle's USDC is a part, promise to bring increased efficiency to payments, can reduce payment services costs to merchants and consumers, and create resilient and open transaction systems through the use of distributed ledger technology. Circle encourages the Central Bank to consider how, or whether, existing regulations applied to traditional financial systems should apply to digitally-native financial systems. If the latter are participating in the same activities as the former, then the same rules should apply. However, if novel financial systems are conducting different activities, there should be different rules applied to these market participants. Blockchain-based payment systems can, by their very nature, resolve some of the risks that are presented in traditional, often "closed-loop" financial structures, but also pose new risks.

Q.8 How can regulators ensure that neither firms currently in the market, nor new entrants, have unfair advantages which could be a barrier to fair competition?

Both existing and new market entrants possess different advantages and disadvantages that bear on consumers, merchants, and fair financial market conduct. Existing market participants, particularly large corporations with control of large amounts of market share, can benefit from entrenched market power. This power can exert itself where existing entities behave as a "gatekeeper", compelling merchants and consumers to use the services of one or a few hegemonic market participants for activities such as payments processing or account custody, resulting in low levels of choice and high costs. Both merchants and consumers can benefit from market competition, diversity, and optionality to lower costs and increase choice.

Established and legacy market participants may benefit from service and/or product bundling, such as the combination of banking and credit provision like lending and mortgages. These offerings may make services offered by established market participants more convenient for end users, incentivising their use and lowering the likelihood that consumers will move away from these institutions and offerings. These circumstances represent high barriers to entry for new market participants, and may unfairly advantage firms currently in the market for financial products and services.

Financial regulators should consider how and why consumers may choose one service over another, and take into account the availability of product and service choice when determining whether the barriers to entry for new market entrants may unfairly privilege existing market participants. The advantages that accrue to existing market participants, like those mentioned above, as well as other aspects of convenience, complementary services, and the relative ease or difficulty to transfer between similar products and services, should be reviewed by the Central Bank. Despite potentially high barriers to entry, new market participants often differentiate their services by focusing on one issue area not treated by legacy service providers. Legacy service providers may seek to thwart these new entrants by creating commercial relationships with the new entrant or its competitors, mimicking the new offerings, or by acquiring the new entrant outright. The Central Bank should examine the strategies employed by established market actors to determine whether they negatively affect consumer choice.

Theme 2 – Digitalisation

Q.9 Do you agree with our analysis of the benefits, challenges and risks around digitalisation in the area of financial services? What are the key issues for you?

Circle believes that digitalisation in financial services can meaningfully reduce costs, accelerate efficiency, foster greater financial inclusion, and improve the user experience for consumers. Circle agrees with the Central Bank's position that digital platforms and applications should be designed with the consumer's interest in mind, be easy to navigate, and be accessible to a wide range of consumers.

For users of digital assets and those who participate in digital asset markets, the relative youth of the technology and market related to digital assets has created disparities that are not typically seen in traditional financial services. For example, for the average user of digital assets, it can be challenging to understand the inter-related concepts of digital asset custody (particularly when the "self-custody" of certain digital assets is possible) and the exchange of digital assets, and to determine trustworthy third parties to facilitate these services for consumers. These disparities may make it more difficult for the average consumer to access digital assets or find them easy to use. Presently, given the relatively novel nature of digital assets and digital asset markets, and a lack of linkages between digital assets and the traditional financial system, it is less likely that ordinary consumers interact with digital assets on a daily basis. However, as digital asset markets mature, the Central Bank should investigate ways in which digital asset market participants can make their offerings more accessible, disclose to consumers the potential risks associated with digital assets (including their custody and exchange), and how digital asset platforms can transparently, securely, and easily offer their services to consumers.

Q.10 How do you think the personalisation and individual-targeting of ads can be made compatible with the requirement for firms to act in the best interests of customers?

The growing digitalisation of financial services invites new ways for businesses and consumers to interact with one another. These interactions may include increased levels of individually-targeted and tailored advertising, made possible by data collection by financial services firms' proprietary web and application interfaces. While some of this data collection is necessary for financial services firms to provide services to their customers, such as through data verification and authentication, other forms of data collection may serve to sell existing or prospective customers other products and services. Often, firms that collect personal data on existing or prospective customers do so to lower the acquisition costs of a customer and increase the value of that customer over time. However, this data collection, and the integration of products and services, can limit consumer choice and portability and impact market competition.

The Central Bank of Ireland and other financial regulators should balance the needs of businesses to operate efficiently with the needs and privacy rights of consumers. In the nascent realm of blockchain-based payment technology and systems, there are novel considerations for the needs of businesses and privacy concerns of consumers.

For Circle and its reserve-backed digital currencies, USD Coin (USDC) and Euro Coin (EUROC), open public blockchains function as the payment rails over which the currencies circulate. These public blockchains securely execute millions of transactions, and virtual asset service providers (VASPs), such as digital asset exchanges and wallets, allow retail end-users to buy, sell, and transfer value and store value. Market participants in this space are constantly innovating, offering consumers and merchants new options to engage with the digital asset economy. Many of these firms are responding to market demands and providing features such as privacy-preserving, secure digital asset custody for end-users, interoperability for digital assets across blockchains, and new ways to use and transfer digital assets, including in traditional financial use-cases like payments. Other businesses are emerging around these market participants, providing novel services like blockchain forensics and analysis, which can supplement anti-money laundering ("AML") and know-your-customer ("KYC") functions for digital asset firms, and assist businesses and governments to track the flow of funds that move across blockchains and target where there may be cases of illicit finance.

Firms that are building and offering products and services in the digital assets space are creating innovations that preserve privacy in digital identity, authentication, and verification. Current practices by traditional financial institutions and technology companies' through the collection, storage, and mining of substantial quantities of personal and transactional information can undermine individual privacy rights and create significant targets for cyber attacks by bad actors. Emerging blockchain technologies such as zero-knowledge proofs have the potential to protect individual privacy while enhancing compliance with financial regulations. Individuals, rather state actors or a few large, private corporations, should own their personal information.

Blockchain-based payment systems have the potential to disaggregate the proprietary and closed-loop stores of data that are accumulated by financial services providers and big tech companies that can pose risks to the privacy and security of consumers. The Central Bank of Ireland should thoroughly investigate how blockchain technology and payment systems can positively affect consumer best interests.

Theme 3 – Unregulated Activities

Q.11 The Code requires regulated firms to provide a statement indicating that they are 'regulated by the Central Bank'. Do you think this is useful for consumers?

Yes

Q.12 How can the difference between regulated and unregulated activities be made clearer for consumers?

Questions 11-13 of theme 3 are answered jointly.

Yes, Circle agrees that a statement indicating the regulatory status of the company is useful for consumers. However, in order to be most effective, the statement should be even more granular and disclose the clear, face-value legal definition of the regulated service offered (e.g. crypto asset custody or e-money-token issuance according to the upcoming Markets in Crypto-Assets Regulation (MiCA) at the EU level).

The more specific the statement, the more information it provides to consumers about which services offered are regulated and supervised by the Central Bank of Ireland. It increases the consumers' visibility over the level of regulation (e.g. a full bank licence vs. a financial advisory licence) and increases the contrast between not only regulated firms and unregulated firms, but also regulated firms themselves.

Being a regulated entity does not mean that all activities offered are regulated. Therefore, statements and disclosures should always include the exact regulatory approval and corresponding service offered. The more visible and specific the statement is, the better it can meet the goal of functioning as both a consumer information tool and a stamp of trust benefiting the regulated entity in its public communication.

However, regulated firms should not have additional constraints when offering unregulated services compared to unregulated firms as this could have the opposite effect of driving consumers away from companies with adequate regulatory measures in place (prudential, governance, safeguarding, AML/CFT etc.) to entirely unregulated actors. On the contrary, if policymakers see a consumer protection risk in a new financial sector or activity, making sure these services are provided by already regulated and supervised market players is the best way to ensure consumer protection, alongside a potential widening of the regulatory perimeter with the introduction of new legislation.

In that regard, the upcoming Markets in Crypto-Assets Regulation (MiCA) in the EU will form the foundation of consumer protection for digital assets in the EU. It establishes a new framework (incl. Information disclosures, governance and safeguarding arrangements) for crypto companies offering financial services to EU consumers, and also sets clear rules for existing financial companies wanting to enter this new industry. This will undeniably improve consumer protection, and as mentioned above any company statement indicating the regulatory status should specify the regulatory licence acquired and financial services offered.

Q.13 Should there be additional obligations on regulated firms when they undertake unregulated activities?

No

See answer above:

Theme 4 – Pricing Matters

Q.14 What can firms do to improve transparency of pricing for consumers?

Questions 14-15 of theme 4 are answered jointly.

For consumer facing digital asset firms, disclosing the dynamic pricing of "gas" and transaction fees on a given blockchain would improve consumer disclosure and provide greater transparency to benefit consumer decision-making. Disclosing both network/infrastructure fees and company fees instead of one total fee will help consumers compare market-rates and make well-informed choices, both with regards to the private service provider and the public blockchain infrastructure used.

Q.15 In relation to pricing, are there examples of firms using unfair practices to take advantage of customer vulnerabilities?

Theme 5 – Informing Effectively

Q.16 How can regulation improve effectiveness of information disclosure to consumers?

Questions 16-18 of theme 5 are answered jointly.

Accurate, consistent, and consumable disclosures are an essential part of any consumer protection regime because they can provide consumers with the information necessary to make an informed decision. Financial services that rely on public blockchains can be safer than traditional financial services because data about the services are open and publicly examinable by default. This allows members of the public, commercial firms, and regulators to examine financial activity and proactively identify warning signs or wrongdoing.

Financial transactions conducted on public blockchains emit certain data publicly such as sending address, receiving address, amount of value sent, and other information. Having this data public by default can protect consumers because it allows members of the public to examine transactions and surface suspicious transactions. For example, Circle recently partnered with TRM Labs and others to launch Chainabuse, a user reporting tool that identifies scammers and fraudsters by on-chain address. When fraud is suspected, users can check a public, searchable database prior to engaging. This adds a layer of user protection using public blockchain technology's unique identifiers. Note that consumers don't have to read code or decipher blockchain data themselves to benefit. Instead, public dashboards, private firms, and others can surface relevant information without needing any relationship with any consumer.

Blockchain sleuths have also been essential for identifying recent, alleged criminal activity. For example, the United States Department of Justice recently charged three individuals with conspiracy to commit wire fraud, alleging that the defendants illegally traded on insider information. The original tip came from a prominent crypto user who goes by the pseudonym Cobie, and the tip was cited by both the DOJ and Coinbase, one of the individual's employers, as an important part of the investigation. Similarly, the origin of the first insider trading case involving NFTs was a tweet from a user who goes by the pseudonym 0xZuwu. By making transaction data public by default - with appropriate privacy safeguards that are being developed - the open nature of digital assets has the potential to make financial disclosure more effective and consumable for consumers.

Q.17 How can firms better support consumers' understanding – can technology play a role?

Q.18 Does the way in which firms approach disclosure in respect of mortgage products need enhancing? If so, how? - taking account of the wide variety of features of mortgage products, and borrowers' different circumstances and needs.

Theme 6 – Vulnerability

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

Q.20 What other specific measures might be adopted to protect consumers in vulnerable circumstances while respecting their privacy and autonomy?

Theme 7 – Financial Literacy

Q.21 What can the responsible authorities do to improve financial education?

Questions 21-22 of theme 7 are answered jointly.

As outlined above, blockchain data is public and transparent and can be aggregated and analysed by anyone, including regulatory authorities. In line with the concept of "embedded supervision", first coined by Raphael Auer from the BIS, supervisors could take a more active role in informing consumers about market abuse/anomalies by tracking and analysing transaction data in real-time. According to a new research paper on Decentralised Finance (DeFi) commissioned by the EU Commission, regulators could issue public opinions on projects and market activity in real-time.

Overall, disclosure requirements imposed on market participants will raise consumer financial literacy, especially related to digital asset products and services. Even for so-called "DeFi front ends", websites that allow consumers to connect their wallets to DeFi-protocols, basic risk disclosures and literacy tests could be a way to introduce sensible consumer protection requirements to an activity that is hardly comparable with traditional finance.

More broadly, apart from regulatory disclosure requirements, policymakers and regulators could increasingly publish and support educational material on complex financial topics like digital assets. As one example, the European Blockchain Observatory and Forum, which is a European Parliament funded pilot project, identifies and monitors blockchain initiatives and trends globally to create a comprehensive, publicly available source of blockchain knowledge. Or as part of the Digital Europe Programme or the project CHAISE, the EU Commission develops and funds blockchains skills development for Europe. These public and public/private initiatives have greatly contributed to improving digital asset education in Europe and should be further developed and complemented.

In November 2021, Circle launched Circle Impact with the goal of cultivating financial inclusion and driving digital and financial literacy. As part of this initiative, in 2022, Circle launched Circle U, a repository of knowledge that provides a comprehensive overview of blockchain-based financial services.

Circle U materials cover fundamental concepts like Ethereum and tokenization, but also e-learning sessions that cover hot-off-the-press issues. It now features seven modules and assessments. In the United States, Circle has partnered with multiple historically black colleges and universities to roll out the curriculum on their campuses and the cohort of institutions using Circle U will expand significantly in 2023.

Circle believes that the promise of wealth creation and the democratisation of finance cannot be achieved unless consumers are equipped with the tools and information they need to make informed decisions about how to engage with financial technology. It is both an opportunity and obligation for Circle to actively drive digital financial literacy through multiple partnerships. Circle is looking forward to further expanding these initiatives, including in Europe, and is always grateful for new public and private partners to collaborate with on this important mission.

Q.22 How can consumers be empowered to better protect their own interests when dealing with financial matters?

Theme 8 – Climate Matters

Q.23 How should the financial system best fulfil its role in supporting the transition to a climate neutral economy?

Q.24 How will climate change impact on availability, choice and pricing for financial products and services?

Q.25 Does the impact of climate change require additional specific consumer protections?

T: +353 (0)1 224 5800
E: publications@centralbank.ie
www.centralbank.ie

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