

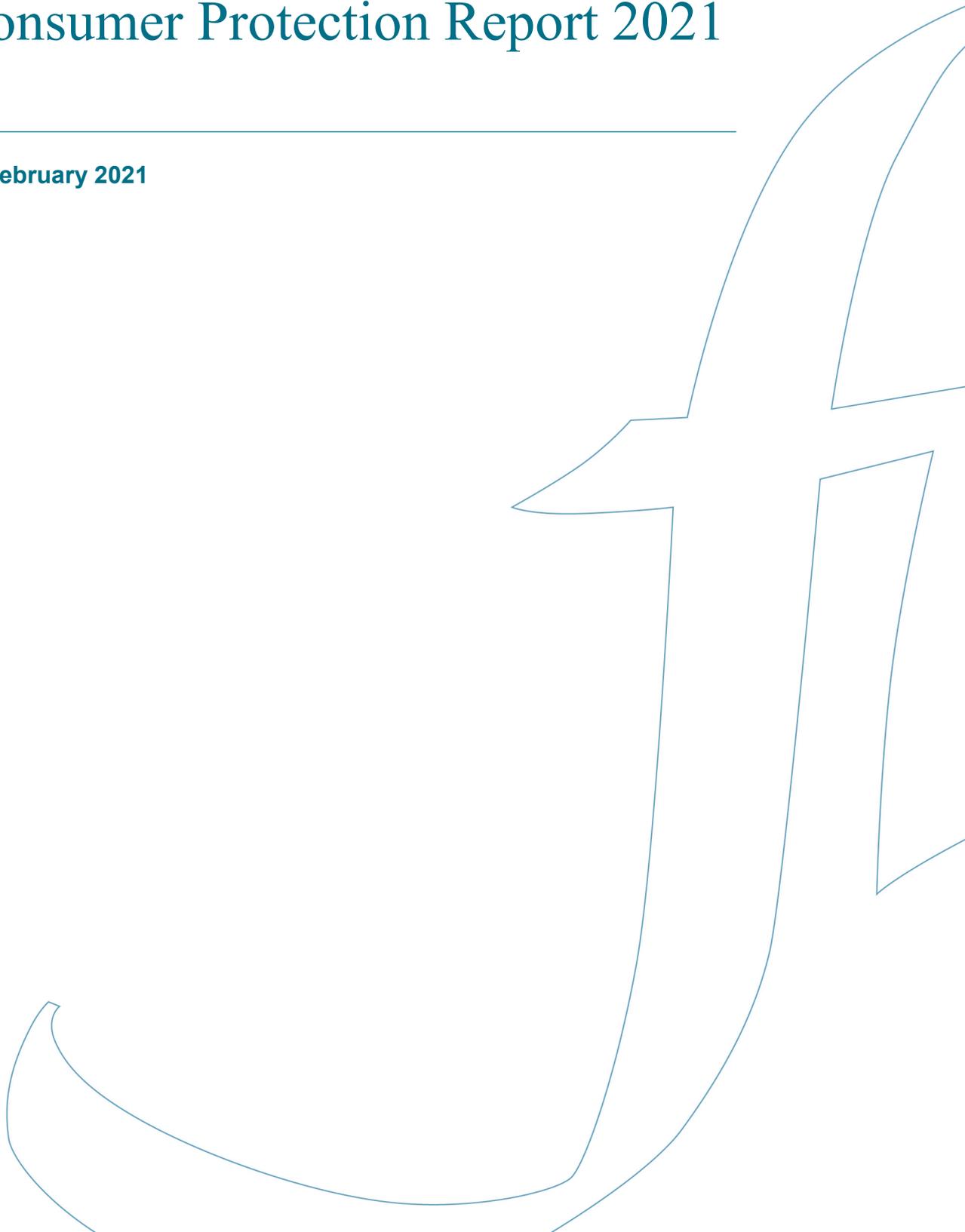


**FINANSINSPEKTIONEN**

# Consumer Protection Report 2021

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**24 February 2021**



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By publishing this report, Finansinspektionen is fulfilling its duty to report to the Government on its work with consumer protection in accordance with Section 3, point 4 of FI's instructions.<sup>1</sup>

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<sup>1</sup> Finansinspektionen's Instructions Ordinance (2009:93).

## Summary

FI raises two risks to consumer protection on the financial market that will be prioritised in 2021: unaffordable lending and deficiencies in the duty-of-care obligation on the investment and insurance markets. In order to improve the creditworthiness assessments of the borrowers, the government should appoint an inquiry to consider how credit providers could gain an overview of a consumer's total debt. FI also proposes that the inquiry should investigate how some debts under collection could be included in this information.

The pandemic is affecting consumers' financial situation. Many are being forced to reassess the savings, loan and insurance products they need. Some are using payment methods they are not familiar with. The duty of care requirement must always stand at the centre of the firms' operations, but this has become particularly relevant during the pandemic.

FI notes that fast and easily accessible loans constitute a risk that consumers will borrow more than what they are able to pay back. Many young adults risk taking on debt early in life, which could limit their freedom when they are older. FI will investigate in 2021 how credit providers conduct creditworthiness assessments and whether these assessments follow sound lending practices. Furthermore, FI will conduct an overview during the year of its guidelines on credit assessments and sound lending practices. FI will also investigate how payment service providers present different e-commerce payment options since credit options must not come first.

Another prioritised risk is related to deficiencies in the duty of care on the investment and insurance markets. Investment firms, insurance companies, and insurance intermediaries must ensure that there are appropriate and suitable procedures and processes in order for their products to reach the right target market – before a product is distributed, at the point of sale, and after the point of sale. It is also important that advice always be based on what is suitable for each individual customer. FI will focus in 2021 on the firms' product governance (both at the time of product development and distribution) and their compliance with key consumer protection rules, such as the rules on inducements and investment advice.

Since a large percentage of Swedish consumers have direct or indirect fund savings, information about the level of activity for funds will also be an important area for FI in 2021.

## Lack of financial knowledge is placing specific demands on the duty of care during the pandemic

The coronavirus pandemic has had an impact on the finances of many consumers. Many have needed to make decisions about borrowing, savings and insurance cover. At the same time, Finansinspektionen's (FI's) household survey shows once again that many consumers lack basic financial skills. The requirements in the regulations concerning duty of care must always be at the heart of firms' operations, but this has become particularly pertinent in conjunction with the pandemic.

### *Personal finance challenges in light of the pandemic*

In 2020, the world was hit by the coronavirus pandemic (Covid-19), which has had serious and far-reaching consequences. A large number of people have become seriously ill, and many have died. From an economic perspective, almost everyone and all parts of society have experienced more or less far-reaching changes and difficulties. The pandemic has hit Swedish consumers to varying degrees and in various ways. For many people, the pandemic has had an impact on their personal finances. Some have lost their jobs or been forced to close their companies. Others are furloughed and are worrying about whether they will be able to return to work in future. Young people wonder whether they will get a job in the professions they have trained for. Many consumers still have a job but are working under new conditions. Some have longer, harder shifts, other are remote working from home. Many older people and those who are high risk are living in isolation. Travel and consumption patterns have changed for everyone.

Changes in other consumption patterns, including shopping online instead of in physical shops and declines in, for example, travel and restaurant dining but increases in other sectors, have had an impact on consumers' purchasing and payment habits. According to the Riksbank, the proportion of payments made using Swish has increased, contactless payments and mobile payments have become more common, while the use of cash is thought to have decreased.<sup>2</sup> The Swedish Internet Foundation has found that pensioners who use the internet are the group in which the use of Swish has increased most during the pandemic; by nine percentage points from the first to the third quarter of 2020 (from 68 per cent to 77 per cent) and by 17 percentage points since 2019.<sup>3</sup>

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<sup>2</sup> Payments in Sweden, The Riksbank, 2020.

<sup>3</sup> *Svenskarna och internet* [The Swedes and the Internet], Swedish Internet Foundation, 2020.

Many consumers have savings that are dependent on the development of the financial markets. This can be, for example, investments in funds and shares or through private or collectively bargained pension insurance. The prices in many markets fell sharply at the beginning of the pandemic. Consumers saw the value of their savings fall. The financial markets have since recovered with the help of powerful fiscal and monetary policy measures. These measures, combined with the low market rates, have contributed to a situation in which investors are now seeking out higher risk assets in order to achieve a better return.

Because of the intense movements in the financial markets, there was a period during which certain funds were unable to correctly value their assets. Some fund management companies were forced to delay sales and purchases of units of a number of corporate bond funds.<sup>4</sup> This was a cause for concern among some of the consumers who had invested in these funds.

The pandemic has brought consumers' insurance cover to the fore. Many consumers have had income insurance policies that they have been able to use. Others have discovered that they have not had these when they have needed one or that they have not been entitled to compensation because a certain qualification period was required. Many have chosen to use their travel insurance when their trips have been cancelled during the pandemic. Especially at the start of the pandemic, FI and the Swedish Consumers' Insurance Bureau received calls from consumers who had questions about their insurance cover, and who had, in many cases, also realised that their insurance did not provide the cover they had were expecting in the situation that arose. Altered circumstances as a result of the pandemic, including home working and less travel, may also have affected things like the number of car crashes, work-related injuries and injuries resulting from more renovations to houses and holiday homes. In turn, this will have an impact on the insurance needs of consumers and the extent to which they are using their insurance policies.

#### *Consumers' financial skills*

FI conducts regular investigations into households' financial skills and individuals' numeracy.<sup>5</sup> A new household survey was conducted in autumn 2020.<sup>6</sup> Even though the result of this show some improvement

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4 Fund management companies have an obligation to treat unit-holders equally. Situations may arise in which the redemption of fund units may need to be delayed out of consideration for the interests of unit-holders. For example, this happens when the assets of an investment fund cannot be valued in an adequate way due to exceptional circumstances or where the liquidity of the underlying assets is unsatisfactory.

5 Financial skills and numeracy are a prerequisite for understanding financial information. However, greater financial skills say nothing about what a person knows when it comes to specific products and services.

6 *Rapport om hushållens ekonomi 2020* [Household Finance Report 2020], Finansinspektionen, 2020.

compared with the previous investigation from 2017 (which is also partly explained by changes to the measurement methods), FI is able to conclude that a relatively large number of consumers still do not have the basic knowledge and skills needed in order to understand financial information and to make informed personal finance decisions. Of those questioned, 13 per cent did not understand the effect of compound interest. Just under one quarter were also not able to calculate the original price of an item based on information about the item's present value and its proportion of the original value. Just over one in four did not know that it is normally safer to buy units of an equity fund rather than shares in an individual company (i.e. spread the risk).

The fact that consumers in general have a limited interest in and knowledge of financial services is nothing new. Nonetheless, it does present a challenge as today's individual consumer has to deal with an increased number of decisions about their personal finances themselves, for example about their pension. Lack of financial skills and numeracy results in many consumers failing to choose the financial products that are best for them, or not reviewing previous choices as their situation changes. This may involve keeping long-term savings in an account with a low interest rate or their pension savings having a level of risk that is inappropriate in relation to their age and how close they are to retirement age. When the world is shaken by a pandemic and many consumers are faced with having to make new decisions about their personal finances due to a change in their situation, it is particularly important that firms take into account the fact that consumers may have poor financial skills.

*Significance of firms' duty of care in conjunction with the pandemic*

The implications of the duty of care include that firms, when choosing the target group for a product, developing their services and when distributing products and services, must consider the fact that consumers are generally at a disadvantage, regardless of how much information is available. Firms are not allowed to take advantage of this in order to, for example, sell more complex or high-risk savings products, grant larger loans with higher interest rates or sell more expensive and more extensive insurance policies than what is justified on the basis of the individual consumer's needs.<sup>7</sup> When financial firms are developing and selling products, they have to take into account consumers' circumstances and on the basis of these adapt factors such as complexity, cost and risk.

Because of the pandemic, many consumers are faced with difficult new personal finance decisions and are using financial services that they are not familiar with. There is a particularly large amount of responsibility placed on firms in the financial sector upholding their

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<sup>7</sup> A Framework for Consumer Protection, Finansinspektionen, 2017, FI ref.17-7487.

duty of care towards the individual consumer when providing advice and distributing financial products.

For example, the European Insurance and Occupational Pension Authority (EIOPA) has urged insurance firms to inform consumers about what their policies cover and to show flexibility in conjunction with claims handling, for example if a consumer is not able to visit a doctor because of the pandemic. EIOPA has also called upon insurance firms to identify, within the scope of their product governance, insurance products that are affected by the pandemic and to assess, for example, whether contractual terms and the way premiums are set are still focussing on the best interests of consumers.<sup>8</sup> Similarly, the European Securities and Markets Authority (ESMA) has reminded investment firms of the importance of its duty of care and consumer protection in its contact with consumers because of the risks that prevail under the special market conditions in place as a result of the pandemic.<sup>9</sup>

No one knows what the future consequences of the pandemic will be, but what is clear is that society, firms and consumers will have to deal with its after-effects for a long time to come, even once the infection has stopped spreading. FI concludes that firms have a great deal of responsibility to prioritise consumer care. At the same time, work with financial knowledge in order to improve consumers' insight and engagement in financial matters is becoming increasingly important.

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#### **Exemption from the amortisation requirement**

In April 2020, FI announced that banks are being given the opportunity to grant borrowers temporary exemptions from the amortisation requirement because of the powerful contraction of the Swedish economy.<sup>10</sup> Even before FI's decision, consumers who had suffered a temporary loss of income, for example because they had been furloughed, has been given the opportunity to obtain an exemption from the amortisation requirement. The decision in April 2020 makes it possible for exemptions to apply to all borrowers. This provides consumers with better chances of managing their personal finances in an uncertain economic situation.

How an exemption from the amortisation requirement affects cash flow varies from household to household. For the median household that is amortising in accordance with the requirement, deferring amortisation payments gives them just over SEK 3,000 more per month. The consumer is able to use this money to increase the amount saved in liquid assets, for example if they are worried about losing their job

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<sup>8</sup> Supervisory expectations on Product Oversight and Governance requirements amidst the COVID-19 situation, and EIOPA urges insurers and intermediaries to continue to take actions to mitigate the impact of Coronavirus/COVID-19 on consumers, EIOPA, 2020.

<sup>9</sup> ESMA reminds firms of conduct of business obligations under MiFID II, ESMA, 2020.

<sup>10</sup> Finansinspektionen's general guidelines (FFFS 2020:3) on exemption from amortisation requirements on special grounds.

or falling ill and therefore want to have an extra-large buffer of savings. Between April 2020 and December 2020, just over 200,000 households were given an exemption from the amortisation requirement. This opportunity to grant exemptions applies to amortisation payments up until 31 August 2021.

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## Risks and priorities

FI is prioritising two consumer risks in 2021: unaffordable lending and deficiencies in the duty of care in the investment and insurance markets. In addition, information about the level of activity for funds is an important issue as many consumers are saving directly or indirectly in funds.

### UNAFFORDABLE LENDING

Digitalisation has revolutionised consumers' buying patterns in a short space of time. It is easy to make purchases using a telephone, tablet or computer. Payment, by invoice or other credit options, is becoming an integrated part of the rapid process. The same options to buy now and pay later are also available in physical shops.

This trend has many positive aspects. There are a lot of things available to buy 24 hours a day, and the process is fast. Especially during the ongoing pandemic, e-commerce and digital solutions have made life easier for many consumers. For some, it is practical to be able to pay by invoice and try out the goods purchased before paying for them. For others, payment by instalments can be a good solution for coping with unexpected or large expenses.

But sometimes it is too fast. The item that appears to the consumer to be cheap when they buy it becomes expensive when it has to be paid for over time. Sometimes, people thoughtlessly buy on credit with a few clicks. It may appear like a convenient solution when the credit option is presented in a prominent place in the online retailer's checkout, or at the next stage when it is easy to turn the invoice into a consumer credit. Debt can build up if the consumer chooses to pay by instalments without first reflecting on the fact that a significant portion of their future income will be tied up in interest and amortisation payments. If the consumer's financial circumstances then worsen, they may have difficulty coping with their commitments, especially if the margins were already small at the beginning.

Credit has become increasingly easily available, not just within e-commerce, but also for those making purchases in physical shops. Retailers sometime have agreements with credit providers that make it profitable for them if the consumer chooses a credit option. Credit providers' point of sale solutions are often integrated into the online retailer's website or app, with the consumer being given the opportunity to choose payment method, for example invoice or payment by instalments. This makes the checkout process fast. Consumers who have contacted FI state that they have not immediately understood that they were choosing to purchase on credit.

New regulations concerning how payment options in e-commerce have to be presented came into force on 1 July 2020.<sup>11</sup> When the bill was presented, the Government cited research about choices and perceptions in conjunction with financial decisions, which shows that a consumer often chooses the option that appears first or is preselected.<sup>12</sup> FI concludes that, even though it is good for the purchase and payment process to be streamlined, it should not be so quick that there is a risk of the consumer choosing the credit option without this being an active choice or without them having considered the alternative payment methods.

#### *Many consumers have small margins*

FI's household survey shows that a majority of households have some degree of buffer in their personal finances – 75 per cent have money left at the end of the month and 80 per cent can cope with an unexpected expense of SEK 20,000. However, eight per cent of the households do not have money left at the end of the month and this is sometimes the case for a further 17 per cent. Accordingly, one quarter of households sometimes have difficulty coping with their monthly expenses. Half of single parents always or sometimes have no money left at the end of the month. In addition, twelve per cent of the households in the survey state that they are not able to cope with an unforeseen expense of SEK 20,000 without needing to take out a loan, sell property or similar.

FI concludes that a relatively large proportion of consumers have small margins. For them, it is particularly important not to make the wrong choice when the purchase and lending process is so fast.

#### *Consumer credit increasingly common*

Unsecured consumer credit<sup>13</sup> has grown by an average of just over seven per cent per annum since 2008.<sup>14</sup> However, it was possible to note a decline in this growth in 2020. It decreased from just over eight per cent in January 2020 to approximately four per cent in December 2020.<sup>15</sup> Consumer credit constitutes just under one fifth of households' total debt, but accounts for a larger share of their total expenditure than mortgages because the interest rates and amortisation payments are significantly higher. For the most expensive loans, known as high-cost credits, FI's evaluation shows that new regulations have led to a sharp fall in the number of these credits being taken and that the interest rate ceiling of 40 per cent has had a normative effect (see page 27).

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11 Chapter 7a of the Payment Services Act (2010:751)

12 Govt Bill 2019/20:79, p. 9.

13 Unsecured consumer credit adheres to Statistics Sweden's definition and denotes unsecured loans and revolving credits.

14 Swedish Consumption Loans, 1 October 2020, Fi Ref. 20-21349.

15 Financial market statistics from Statistics Sweden, [www.scb.se/en/finding-statistics/statistics-by-subject-area/financial-markets/financial-market-statistics/financial-market-statistics/](http://www.scb.se/en/finding-statistics/statistics-by-subject-area/financial-markets/financial-market-statistics/financial-market-statistics/)

According to FI's consumer credit survey, nine per cent of consumers with unsecured loans received at least one reminder during the first five months of the loan. For unsecured loans of between SEK 2,000 and 5,000, more than one in ten borrowers received a collection notice. That such a large proportion of consumers are showing signs of payment difficulties such as short time after the loan has been taken out may be an indication of deficiencies with credit providers' credit assessment.

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### **Reasons why loans may lead to repayment problems**

Almost ten per cent of those who are granted a new consumer credit have repayment problems within five months. These can present through the consumer receiving repeated payment reminders, which can in turn lead to collection notices or claims by the Swedish Enforcement Authority. FI has analysed why some borrowers have repayment problems.

The probability of a consumer having payment problems decreases with increasing age. In the same way, this risk also decreases if the consumer's income is high or they have a surplus in their discretionary income calculation when the credit is granted. However, more consumers suffer problems when their interest and amortisation payments are high as a proportion of their income (credit service ratio). Nonetheless, the credit service ratio has less significance in terms of explaining repayment problems than the factors age, income and result of the discretionary income calculation.

Furthermore, a more extensive credit check reduces the probability of a consumer suffering repayment problems. Those who are granted loans based on a credit check that does not contain information about existing loans have a higher probability of suffering repayment problems than when information about existing loans is included in the credit check.

Those who take out small loans have repayment problems more frequently than those who take out large loans. This is not because small loans are inherently high risk. Instead it reflects the fact that there are other important factors that influence the probability of suffering repayment problems, for example that it is often consumers with a low income who take out small loans. In addition, credit providers are more inclined to conduct a more extensive credit assessment for large loans. In general, the credit assessment for small loans is often less extensive. However, the analysis shows that, when comparing small and large loans on the basis of the same type of loan and credit assessment, the probability of a consumer suffering repayment problems increases when the size of the loan increases.

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### *Far-reaching legal requirements concerning credit assessment*

The requirements under the Consumer Credit Act<sup>16</sup> with respect to

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<sup>16</sup> Consumer Credit Act (2010:1846).

creditworthiness assessment and the fact that credit providers have to adhere to sound lending practices are central to preventing over-indebtedness. When the consumer is invoiced and has to pay within no more than three months without any additional charges, there is no requirement to conduct a creditworthiness assessment.<sup>17</sup> For all other consumer credit, regardless of size – and naturally also when an invoice is turned into another type of loan – the credit provider must assess whether the consumer’s financial circumstances allow them to meet the commitment they have made under the credit agreement. The credit provider must gather sufficient information about the consumer’s financial circumstances and acquire a complete picture of the consumer’s financial situation.

Complying with these requirements is challenging in a consumerist and credit society where speed and simplicity are keywords. Despite the technology being available that allows an item to be purchased on credit with just a few clicks and automated processes at credit providers that allow databases to be checked in a few milliseconds, additional measures and the collection of more data may still be required if the credit provider is to comply with the legal requirements. Consumer protection takes precedence to the retail sector’s aspiration for speed and the fear of losing customers if the consumer has to make an extra click or leave one more piece of information in conjunction with payment. In this respect, the firms that provide the retail sector with payment solutions involving credit have a responsibility.

In addition to the obligation to conduct a creditworthiness assessment based on sufficient data, the credit provider also has to comply with the requirement concerning sound lending practices in Section 6 of the Consumer Credit Act. This involves prioritising the interests of the customer. In individual cases, it may also involve the credit provider advising the consumer against taking out a loan. The act is what is known as a piece of protective legislation that aims to prevent the individual consumer getting a loan that is inappropriate given their financial circumstances. For the credit provider, this means that the models and procedures being used must cope with making this type of assessment. The fact that, as a whole, the credit provider has low credit losses and a low proportion of customers who are not able to meet their commitments is never an argument that can be used to contend that the credit provider is complying with the requirements in terms of protecting the individual consumer.

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<sup>17</sup> Under Section 4 of the Consumer Credit Act, the provisions concerning creditworthiness assessment in Sections 12 and 13 do not apply to interest-free credit, other than a line of credit, that is not associated with more than an insignificant fee, that shall be repaid within three months and that pertains to purchases on credit,

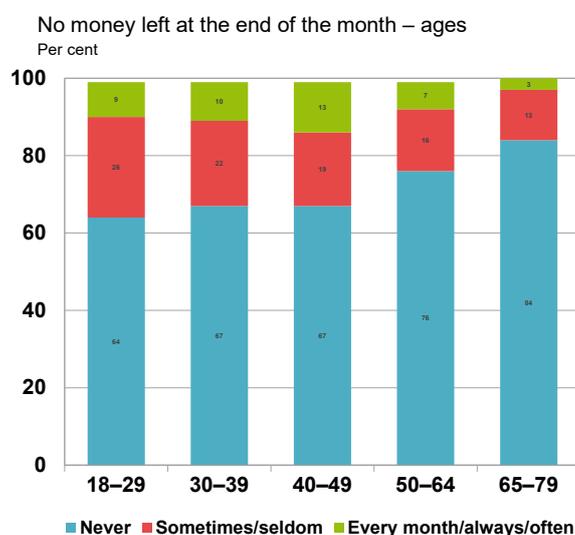
### Review of the general guidelines regarding consumer credit

As part of its supervision, FI has seen that credit providers are conducting creditworthiness assessments in many different ways, depending on the credit provider and type of loan. There is variation in terms of what information is collected by the credit provider with regard to the consumer's financial circumstances, how this is done and how the information is used. The fact that consumers sometimes suffer repayment problems shortly after the loan is taken out suggests that credit providers are not obtaining sufficient information about their customers' financial situation or are conducting insufficient assessments. There is a need for guidance about how the Consumer Credit Act should be interpreted. Consequently, as one aspect of correcting the failings in the market, FI has started the process of reviewing Finansinspektionen's general guidelines (FFFS 2014:11) regarding consumer credit. The review of the general guidelines is focussing on credit assessments and sound lending practices and is expected to be complete by the summer of 2021.

### *Vulnerable young people*

FI is concerned that many young people are at risk of taking on large debts at an early stage of their lives and ending up in a troubling financial situation that, in the worst case, will stay with them for a large part of their lives.

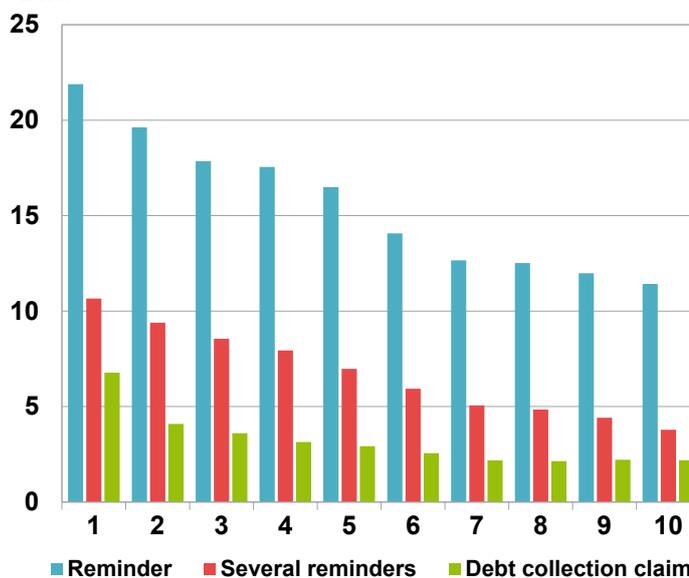
FI's household survey shows that around one third of consumers aged 18–29 state that they always or sometimes have no money at the end of the month. Twenty per cent state that they are not able to cope with an unforeseen expense of SEK 20,000 without needing to take out a loan, sell property or similar. A further eleven per cent are uncertain whether they would be able to do so. Accordingly, there is a relatively large proportion of young consumers who have small margins.



Source: FI's household survey

FI's consumer credit survey shows that purchases on invoice are especially common among borrowers under the age of 25. Consumer credit institutions, whose customers are, on average, paying significantly higher interest rates than is common among other types of firm, together with sales financing companies, have, on average, the youngest borrowers. It is also more common for borrowers under the age of 25 to receive payment reminders. In 2019, one in four borrowers in this age group received a reminder and more than one in ten received two or more during the initial months of the loan. Around eight per cent of borrowers under the age of 25 received a collection notice, which is almost twice as high a proportion as that of other borrowers.<sup>18</sup>

Proportion of borrowers with payment reminders and collection notices during the initial months of the loan – ages  
Per cent



Source: FI Swedish Consumer Credit 2020.

The Swedish Enforcement Authority received 41 per cent more applications for debt reconstruction in 2020 than in the previous year. The increase was particularly large among young people aged 18 to 34, where the numbers more than doubled. In spite of the pandemic, applications in 2020 to the Swedish Enforcement Authority for injunctions to pay do not indicate any major increase in the number of people who have suffered repayment problems. Nevertheless, both the number of applications and the amount due are increasing, i.e. more applications for injunctions to pay that relate to larger sums, were submitted for each individual consumer. This is especially common among young people aged 18–25. Among young men, the number of cases increased by 7.6 per cent and the amount owed by ten per cent. Among young women, the number of people subject to an application

<sup>18</sup> Refers to credit that has entailed a cost to the consumer.

for an injunction to pay decreased slightly but the amount owed increased by a full 19.7 per cent (the number of cases increased by 3.6 per cent).<sup>19</sup>

#### Priorities for FI's supervision

Over the course of 2021, FI will be updating its general guidelines (FFFS 2014:11) regarding consumer credit with respect to those parts that concern creditworthiness assessment and sound lending practices. See page 11.

In addition, FI will in 2021 be continuing the wider investigation that started in 2020 of smaller credit institutions that provide unsecured loans. The aim is to investigate how these firms are conducting credit assessments and whether they are otherwise adhering to sound lending practices. Over the course of the year, FI will also be starting new investigations of firms' creditworthiness assessments.

In 2021, FI and the Swedish Consumer Agency will be conducting investigations looking at how payment service providers are complying with the provisions concerning how payment options are presented in e-commerce. Both authorities share responsibility for the supervision of this area. Furthermore, in accordance with a Government commission, FI will be evaluating and reporting the effects of the new legislation and on whether the intentions of this have been achieved.

FI will also conduct a survey on consumer credit in 2021. The survey encompasses 36 firms and consists of information about borrowers, credit providers and loans.

In addition, FI continues to monitor developments in the Swedish mortgage market through an annual mortgage survey. The focus is on lending and credit assessment in conjunction with mortgages being issued and firms' compliance with the amortisation requirement. The survey encompasses the eight largest mortgage lenders.

The consumer credit and mortgage surveys have made it possible for FI to continually monitor how lending is developing. FI will also be gathering information about existing loans and borrowers. The new survey will, among other things, allow FI to study how it looks when consumers build up debt, broken down by types of loan. FI will also continue to study repayment problems. In addition, FI will use calculations of liquid assets in order to improve how it analyses borrowers.<sup>20</sup>

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<sup>19</sup> The Swedish Enforcement Authority's statistics.

<sup>20</sup> Andersson, M.K. and R. Vestman, 'Liquid assets of Swedish households', FI Analysis 28, 2021.

In 2021, FI will continue its work to improve the financial literacy of various target groups, including young people. The teaching materials on personal finance for upper secondary school pupils include exercises about saving and lending.

### Refinancing loans to increase the repayment period not always beneficial for the consumer

FI's consumer credit survey shows that close to one quarter of all unsecured loans are used to pay off existing loans and credit. For loans of more than SEK 100,000, this proportion is twice as high. In individual cases, refinancing the loan and extending the repayment period can be a solution if it entails lower interest rates, for example in the event of temporary repayment problems or if the consumer is trying to achieve predictable monthly costs. However, it can also result in the consumer building up high levels of debt.

Consumers are confronted with a huge amount of marketing by credit intermediaries and credit providers pointing out that it is beneficial to refinance several small loans using a single loan and thus achieve a lower monthly cost. This often involves long repayment periods being offered and what are known as annuity loans. These loans involve the monthly amount staying the same throughout the entire repayment period as long as the interest rate remains unchanged and the distribution between interest and amortisation payments changing over time.<sup>21</sup> At the beginning of the repayment period, the bulk of the monthly payment is made up of interest, with the proportion of the payment consisting of amortisation increasing over time. If an annuity loan is refinanced after a short time using a new annuity loan with a longer repayment period, the consumer will be paying a lot of interest and amortising very little at the beginning of the repayment periods of the various loans. Consequently, the total cost that the consumer pays, i.e. the total interest payments and fees for the various loans, is very high.

**Table: Impact of the repayment period on the total cost**

Amount borrowed	Interest rate	Repayment period/months	Monthly amount	Total cost
SEK 25,000	12 %	36	SEK 822	SEK 29,597
SEK 25,000	12 %	60	SEK 551	SEK 33,036
SEK 25,000	12 %	144	SEK 325	SEK 46,815

Source: FI.

Note The total cost is exclusive of any arrangement, invoicing and late payment fees. Any potential tax relief on interest payments has not been taken into account.

If consumers continually roll-over loans and thus avoid amortising them, they can in the long run be putting themselves in a situation in which they become over-indebted. It is worth noting that for purchases on credit, the length of the repayment period should not exceed the lifespan of the item being purchased and the amount

<sup>21</sup> Around 65 per cent of the unsecured loans with a reported amortisation type in FI's consumer credit survey were annuity loans. Annuity loans often have a higher nominal interest rate than loans with straight-line amortisation.

that is to be repaid at each payment date should be such that reasonable amortisation takes place over time.

Credit providers and credit intermediaries have reason to consider their responsibility under sound lending practices to show due care with respect to the consumer and their interest. It is conceivable that some consumers do not understand the consequences of repeatedly refinancing their loans – that which reduces the monthly cost in the short term actually increases the total cost (see table).

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## DEFICIENCIES IN THE DUTY OF CARE IN THE INVESTMENT AND INSURANCE MARKETS

As a consumer, making a well-informed choice when selecting types of savings and investments or pension solutions may be difficult for many reasons. The consumer is often at a disadvantage in terms of information and knowledge in relation to those who are offering savings products. Knowledge, experience and interest are required in order to assess what return the investment can be expected to provide, how high the risk is and what the total costs will be over time. FI's household survey shows that a relatively large number lack the basic financial skills to allow them to make effective decisions about their personal finances. Just over one in four households stated that they did not know that it is usually safer to buy units of an equity fund than shares in an individual company, i.e. to spread the risk (see page 5).

Investment firms, insurers and insurance intermediaries always have to demonstrate due care in respect of the consumer and act honestly, professionally and fairly.<sup>22</sup> Under the Securities Market Act (2007:528) and the Insurance Distribution Act (2018:1219), stringent requirements are placed on investment firms', insurers' and insurance intermediaries' product governance processes, from the development of the product to its distribution. It is common for more than one party to be involved in the chain. With many parties involved in the development and distribution of an investment or insurance product, it is important that there is good internal governance and control of all elements of the chain.

### *Far-reaching requirements concerning product governance*

Investment firms, insurers and insurance intermediaries have to ensure that there are appropriate and suitable procedures and processes – before a product is distributed, at the point of sale and after the sale has taken place.

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<sup>22</sup> Chapter 4, Section 1 of the Insurance Distribution Act (2018:1219) and Chapter 9, Section 1 of the Securities Market Act (2007:528). The latter specifies that investment firms shall always act in the interests of the customer.

In June 2020, FI withdrew all of Exceed Capital Sverige AB's (Exceed or the company) authorisations to conduct securities business and insurance distribution. The investigation showed, among other things, that Exceed had failed in its application of the product governance rules. Complex high-risk products had been sold to consumers who had much more basic investment needs without the company having ensured to a sufficient extent that these consumers understood what the products entailed. FI's investigation showed that the company had, among other things, fallen short in terms of how it established target groups for these products.

The establishment of target group is central in the regulatory framework. As early as when a product is being developed, the firm that is developing the product has to define which consumers and other end clients the product is suitable for. This target group may not be too broad or generalised. As a rule, the more complex the product is, the more well-defined the target group should be. When establishing a target group, it is also important for the producer to take into account the terms and conditions of the product. For example, if a payment protection insurance product requires the policyholder to have a permanent employment, those who are not in permanent employment cannot be included in the product's target group. Furthermore, EIOPA has stated that it is important for the firm to assess whether the insurance product provides that intended target group with fair value at the price that is to be paid.<sup>23</sup>

The insurers or investment firms that develop these products also have to assess what risks there are for the target group, choose an appropriate distribution channel and test the products before they start being distributed so that the distribution leads to the correct product reaching consumers in the correct target group. In addition, those who are distributing the product have to have sufficient knowledge of it.

At the point of sale, there are also several rules that are in place to ensure that the interests of the individual are protected. Consequently, how distribution takes place is of importance. For example, before an insurance contract is entered into, an insurance distributor has to clarify what the customer's requirements are with respect to insurance cover based on the details the customer has provided and give the customer impartial and clear information about the insurance product.<sup>24</sup> This also applies if no advice is provided. Certain sales methods may be more appropriate than others for achieving this. For example, FI has seen insurers and insurance intermediaries that send out product offers that include a payment slip the consumer uses to take out the insurance policy by making a payment. However, in order to assess whether the insurance policy is suitable for the consumer before a contract is entered into, the party selling the policy must, for

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<sup>23</sup> EIOPA's approach to the supervision of product oversight and governance, 8 October 2020.  
<sup>24</sup> Chapter 5, Section 11 of the Insurance Distribution Act (2018:1219).

example, establish whether the individual customer already has equivalent insurance cover or does not need the policy for some other reason. A firm that chooses this type of sales method also has cause to think about how it has ensured that the product is actually reaching the target group.

The product governance rules also imposes requirements on firms after they have begun selling investment or insurance products. Firms which develop and distribute products have to regularly review the products they are offering or marketing. This review has to take into account which events would have a material impact on the risks for the target group and firms have to monitor and check that the products are being distributed to the established target group. The review also has to include an assessment of whether the product still corresponds to the target group's needs and whether the intended distribution strategy is still appropriate. For example, the firm should take into account the number of complaints that the distributor has received about the product when conducting this assessment. If the review shows that the products are not meeting the needs of the target group, the firm has to take action immediately.

#### *Inducements*

FI has long noted that there is a risk of investment firms and insurance distributors providing advice about products that give them large commissions instead of the products that are most suitable for the consumer. Inducements create conflicts of interest that are difficult for firms to deal with. In the past, FI has called for a ban on commission in conjunction with advice. Subsequently, legislation has only permitted inducements in certain cases and under certain circumstances. Over the course of the year, FI will be reporting on the effects that these regulations are deemed to have had thus far (see page 20).

Rules on remuneration to third parties are found in both the Securities Market Act and the Insurance Distribution Act and the aim is to specifically control these conflicts of interest.

In the sanction decision against the investment firm Exceed, FI stated that one condition under which commission is permitted in a securities business is that it is possible to track which commission is being received, which specific services they are designed to improve the quality of and to which specific customers these services are provided. If customers are generating different amounts of commission, which must be regarded as normal, the firm must be able to describe the way in which different customers are given access to different levels of the measures to improve quality. An investment firm must make a documented and reasonable appraisal of the measures to increase quality in relation to the different services that customers can be expected to use and then determine whether these services are proportionate to the level of the remuneration received.

FI found that Exceed had not been supervising its commissions in relation to the firm's specific measures to increase quality to such an extent that the firm could reasonably determine whether the commissions were permitted. Nor were there the requisite links between the remuneration payments and the measures that the firm had listed as measures to increase quality.

*Advice about suitable products*

A consumer can meet advisers from banks, insurers, insurance intermediaries and investment firms. It is also not uncommon for an investment firm to have entered into agreements with one or more tied agents.<sup>25</sup>

Advice about financial products always has to be based on what is suitable for the individual customer on the basis of their needs, objectives and circumstances. The adviser has to work on the basis of a range of products that is adapted to the target group to which the consumer belongs. What remuneration an adviser receives when they sell various products shall also not influence which product is recommended to the consumer.

An adviser has to take into account the fact that the individual consumer may have limited knowledge and insight when the adviser is providing suggestions and explanations. For example, consumers have differing prospects of understanding terms and conditions governing what a non-life insurance policy covers or the difference between a unit-linked insurance policy and a traditional insurance policy.

Over the years, FI has pointed out how consumers find it difficult to understand both the set-up and the risks associated with certain types of corporate bonds and complex products such as structured products. Complex products attract consumers with the expectation of a high rate of return. However, they are often associated with a high level of risk, high fees and complicated terms and conditions that may be difficult for consumers to understand. There must not be anything other than the consumer's actual needs that controls what advice is provided. The more complicated the products, the more stringent the requirements that are placed on the adviser ensuring that the consumer actually understands what they are buying.

In the sanction decision against Exceed, FI emphasises, among other things, that the duty of care is of particular importance when it comes to a firm that is offering complex and opaque products that are often not appropriate to market to consumers in light of the very large risks with which they are associated. This places stringent requirements on the firm to act with care and responsibility.

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<sup>25</sup> A tied agent is a natural or legal person that, after registration with the Swedish Companies Registration Office, is able to provide investment advice on behalf of a securities institution.

Exceed had offered complicated investment products where the consumer's return was dependent on several underlying factors and relationships that made it difficult for the consumer to understand the risks associated with the investment. Among other things, FI noted that a consumer who had retired received the advice to invest more than 60 per cent of their savings in very risky products such as debt obligations and leverage certificates, which they could not use before they had turned 85 years of age. This entails major financial risks to the consumer.

FI questions whether the type of complicated products Exceed was providing advice about – products that are difficult to understand and involve expensive arrangements – should be distributed to an average consumer at all. This is something that firms need to take into account in both their product governance and in the advice they provide. The best thing for this sort of consumer should normally be to invest in a form of savings that is simple and comprehensible.

#### Priorities for FI's supervision

As part of its supervision of investment firms, insurers and insurance intermediaries, FI will be focusing on these firms' product governance during both product development and distribution. FI will also be focusing on whether firms are complying with central customer protection regulations, such as that advice shall be based on the consumer's needs and circumstances, and the rules on inducements.

FI has been tasked by the Government with following up on the rules on markets for financial instruments (MiFID II and MiFIR)<sup>26</sup>, which came into force at the beginning of 2018. FI is to describe the effects that the regulatory framework is deemed to have had thus far when it comes to the rules on commission and independent advice and the goal of achieving more harmonised regulation of the actors that provide advice in the financial market area. The report on this assignment is to be delivered to the Government no later than 31 December 2021.

FI has also been tasked by the Government with following up on the new rules for insurance distribution that have been applied since autumn 2018.<sup>27</sup> This involves FI reporting on the effects the regulatory framework is deemed to have had thus far when it comes to the goal of strengthening consumer protection in the insurance market and of achieving more harmonised regulation of the actors that provide advice in the financial market area. FI is also to report on the

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<sup>26</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MiFID II) and Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (MiFIR).

<sup>27</sup> Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (IDD).

incidence of commission and the effects of the rules on advice based on an impartial and personal analysis, as well as insurance distributors' choices of distribution channels and distribution models. A report on this assignment shall also be submitted to the Government no later than 31 December 2021.

## INFORMATION ABOUT THE LEVEL OF ACTIVITY FOR FUNDS

It is more common in Sweden than in many other countries to save in funds. Consumers invest their savings both directly in funds and indirectly through unit-linked insurance policies. Many of those who work and receive an income in Sweden are also investing in funds in those cases where their occupational pension is being invested in a unit-linked insurance policy. On top of this, there is a total value of approximately SEK 1,500 billion invested in funds within the premium pension system.<sup>28</sup> The total net asset value of Swedish UCITS and special funds (UCITS-like AIFs) subject to FI's supervision amounted to SEK 4,490 billion in the fourth quarter of 2020.<sup>29</sup>

Consequently, many consumers are faced with choosing which funds they are to invest in. In which case, they need to have access to clear and comprehensible information. It is especially important to understand whether the fund management fees are reasonable in relation to the fund manager's potential to get the fund to provide a good return.

### *Actively managed funds and index funds*

In the market for funds there is a differentiation between actively managed funds and index funds. In an actively managed fund, the manager makes active investment choices by analysing each holding and, for example, deviating from the fund's benchmark index in order to achieve a greater return. On the other hand, an index fund is a fund that tracks the composition of a specific index. In this type of management, no deviations are made and there is thus no need for any specific analysis of individual firms or sectors. There are also index-based funds. This means that the fund tracks a specific index but that the manager chooses to make minor deviations from the index.

An actively managed fund therefore requires greater input from the manager, including analysis of which investments are to be made. In turn, this means that it is reasonable for an actively managed fund to be more expensive than an index fund with a similar investment policy. Accordingly, consumers who choose an actively managed fund

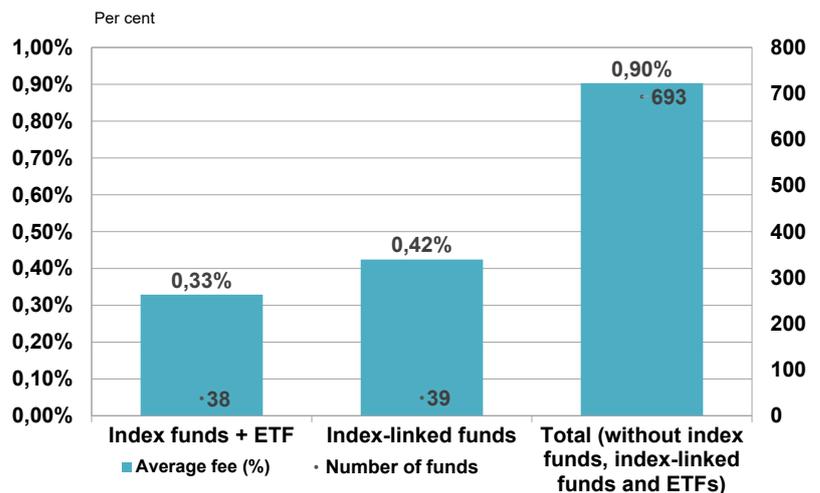
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28. Statistics from the Swedish Pensions Agency, November 2020.

29 Distributed among 770 Swedish UCITS and special funds. The state pension fund AP7 is excluded. Source: FI's reporting of holdings for Swedish UCITS and special funds.

pay higher fees because the manager is making active investment choices. The consumer is buying the potential for a higher return. At the same time the consumer is taking on a risk in that the return from the fund may be lower than the return from the fund's benchmark index.

The average fixed fee for Swedish UCITS and special funds on 31 December 2020



Source: FI's reporting of holdings for Swedish UCITS and special funds.

Note: The state pension fund AP7 is excluded. ETF – exchange-traded fund. ETFs are included in the bar for index funds.

The market for funds is dominated by funds that are marketed as active funds and that, on average, charge higher fees than index funds.

FI has previously pointed out that there are problems associated with funds that claim to be actively managed but provide an active level of risk and a return similar to that of index funds. There is then a risk of consumers paying for a service that is not being provided.

#### *New information requirements*

A new legal requirement that fund managers must provide information about the level of activity of their fund management came into force on 1 January 2020.<sup>30</sup> The aim of this legal requirement is to improve consumers' potential to assess whether the annual fee charged by the fund manager for managing the fund is justified in relation to how actively the fund is being managed. Fund managers have to provide information about how actively the fund is being managed in relation to the fund's benchmark index. This information has to describe how the fund is being managed and why the benchmark index being used is relevant. If the fund has existed for at least two years, the level of activity also has to be specified as the activity measure tracking

<sup>30</sup> The requirement is in Chapter 4, Sections 25–28 of the Swedish UCITS Act (2004:46), Chapter 10, Sections 13-16 of the Alternative Investment Fund Managers Act (2013:561) and Chapter 5, Section 7 of the National Pension Funds Act (2000:192).

error.<sup>31</sup> Tracking error has to be specified for each of the past ten years or for each year the fund has existed, if this is shorter. The fund manager also has to provide an explanation of the reported activity measure.

If the management of the fund cannot be compared to a relevant benchmark index, the manager has to provide information about why comparison with a relevant benchmark index is not possible. The information has to be available on the fund management company's website. In addition, the information has to be provided in the fund's prospectus and annual report.

In recent years, FI has pointed out the importance of consumers being given comprehensible and accurate information so they are able to make well-balanced investment decisions based on reasonable expectations about the fund's performance. It must be possible for consumers to assess whether the annual fee is justifiable on the basis of the level of activity specified by the fund. It is very important that consumers are able to study clear information about the level of activity in order to enable them to assess whether the size of the annual fee charged by the fund manager for managing the fund is justified in relation to the level of activity reported by the fund management company.

#### Priorities for FI's supervision

In 2021, FI will be conducting an in-depth analysis of how fund management companies have applied the new legal requirement concerning degree of activity. This in-depth analysis may then lead to investigations of individual firms being initiated.

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<sup>31</sup> Active risk is a key performance indicator that shows how much the return from the fund fluctuates in relation to its benchmark index.

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### Liquidity risks in funds

In conjunction with the turbulence in the financial markets caused by the pandemic in spring 2020, it became clear that the risks of investing in corporate bond funds may be higher than many investors previously thought. Spring 2020 showed that these funds can also be subject to major liquidity risks. Uncertainty about the firms' future, combined with difficulties valuing corporate bond funds in a reliable way, led to outflows from some corporate bond funds in Sweden and abroad. The funds attempted to sell bonds in order to free up liquidity, but it was difficult to find buyers. The values of the fund units fell, in certain cases very sharply, despite the fact that no credit losses arose. When the situation in the financial markets subsequently stabilised, the value of the funds recovered.

The events of spring 2020 illustrate that the level of risk of various types of fixed-income funds can differ a lot in spite of the historical return having been stable and the fluctuations in the unit values (volatility) having therefore been low. The standard used in the key investor information document to report level of risk is based on the fund's historical volatility. If the measurement period does not cover previous periods in which there were large upswings and downturns – stressed periods – it does not provide a true and fair guide to how the value of the fund units may change in the event of a shock. Because Swedish corporate bond funds have historically had a low volatility, this measure may underestimate the actual risk of fluctuations in return and unit values for these funds.

In future, parts of the fund industry will be supplementing the standardised retrospective risk measure with a new measure that relates to credit risk. This measure will make different fixed-income funds more comparable and is being published in the funds' annual and half-yearly reports. However, this does not solve the problem of liquidity risks that are due to funds with daily redemption investing in instruments that have limited liquidity. What happened in 2020 demonstrated that fund management companies must be alert to and deal with liquidity risks as an essential part of their operations. In 2020, FI analysed fund management companies' management of liquidity risk in several different ways. Among other things, the analysis showed that there are still a large number of fund management companies that are only providing a general description of liquidity risk that is the same for all of the company's funds in the key investor information document. Although the information provided in the key investor information document is standardised and brief, FI's investigation shows that there is room for improvement. FI intends to publish a supervision report in spring 2021 in order to describe in a unified way its observations and expectations with respect to how liquidity risks are managed in funds.

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# Experiences from supervision and action taken that focuses on consumer protection

In this section, FI describes a selection of the supervisory activities and supervisory measures with a focus on consumer protection that FI has implemented in 2020.

## RIGHT TO A PAYMENT ACCOUNT

Consumers need a payment account with basic features in order to cope with everyday life and function in society.<sup>32</sup> For example, this involves being able to receive a salary, pay bills such as rent and electricity, take out cash, make transfers and pay using a card. This is why the Payment Services Act (2010:751) contains an obligation for banks to open a payment account with basic features for any consumer who is a legal resident of the European Economic Area (EEA).

A bank may be entitled in certain cases to deny a consumer the right to open a payment account with basic features. On the one hand, the regulations for combating money laundering and terrorist financing always take precedence. This means that the bank must confirm the consumer's identity and conduct sufficient customer due diligence, which involves, among other things, understanding the purpose for which the account is being opened. On the other hand, there is the possibility for the bank to deny someone a payment account with basic features if there are what are known as 'special grounds' to do so. This concerns limited and specific cases and may involve the consumer having misbehaved in the past in certain respects in their relationship with the bank or financial crimes having been committed with the help of the payment account.

In recent years, both FI and the Swedish Consumers' Banking and Finance Bureau have seen an increase in the number of consumers who say they have been denied an account with basic features or have had their accounts closed. It is most common for the bank to cite insufficient customer due diligence as grounds for doing so.

In a report that was published in 2020, FI concludes that the banks have, by and large, introduced procedures for complying with the requirement concerning the right to an account and are aware of their

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<sup>32</sup> Chapter 4a, Section 2, first paragraph of the Payment Services Act describes what is meant by the term 'basic features'. Under point 4, it stipulates that basic features include performance of the following payment transactions with the EEA: a) direct debit, b) payments through a debit card, including online payments, and c) payment, including standing orders, at terminals, over the counter and via the credit institution's online services.

obligations under the regulations.<sup>33</sup> However, given the consumer problems FI has become aware of, FI comes to the conclusion that information about the regulatory framework and the banks' procedures has not reached all affected employees. Consequently, FI sees a need for the banks to check that procedures are being applied analogously throughout the entire organisation. In the report, FI also notes that there are some application difficulties in the relationship between the payment account regulations and the money laundering regulations. In a forthcoming review of the Payment Accounts Directive<sup>34</sup>, the relationship between the two regulatory frameworks needs to be made clear, but FI also emphasises in the report the need for banks to have good procedures in place to deal with this problem and work with information and training internally. There must not be incentives that lead to consumers who are potentially unprofitable for the bank being denied an account.

The act stipulates that an application shall be processed promptly after a credit institution has received a complete application.<sup>35</sup> One problem is that when consumers are asked to supplement their applications – sometimes several times – no processing of the application is started and the consumers do not receive any confirmation of refusal that they can take to someone responsible for complaints and to the National Board for Consumer Disputes. FI concludes – pending a review of the regulatory framework in question about when an application is to be deemed sufficient to be received by the bank – that there is a responsibility on the banks to have procedures and incentives in place such that consumers are treated equally before an application is completed.

Both FI and the Swedish Consumers' Banking and Finance Bureau have received complaints that involve banks having demanded personal identity number or Swedish identification documents when the consumer has a passport from an EEA country. In addition, people with a Swedish personal identity number and an EEA passport have been denied accounts and have been asked to come back with a Swedish identification document. The legislation and its preparatory works state that it is not permitted to deny a consumer an account because they do not have a personal identity number. In cases where consumers have personal identity numbers but have an EEA passport instead of a Swedish identification document, the National Board for Consumer Disputes has approved the consumers' request to be permitted to open an account. FI is of the opinion that, in this respect,

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33 *Redovisning av betalkontodirektivets genomförande i Sverige* [Report in the implementation of the Payment Services Directive in Sweden], 16 December 2020, FI Ref. 20-28029.

34 The obligation under the Payment Services Act to open a payment account with basic features that has applied since 1 June 2017 applies by virtue of Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.

35 Chapter 4a, Section 3 of the Payment Services Act.

the banks must ensure that their employees are aware of how they are to act when the banks' standardised methods for opening an account cannot be used. This is necessary in order to avoid situations in which consumers are incorrectly denied an account with basic features.

The Swedish Consumers' Banking and Finance Bureau also states that the number of cases in which consumers are thought to have been denied an account because of poor finances, records of non-payment and debt reconstruction has increased. FI has also received indications to this effect from the consumers who have made contact with the authority. Although the banks has some potential to deny someone an account by citing special grounds, for example if a consumer has previously misbehaved in certain respects in their relationship with the bank, an account cannot be denied because the consumer has not paid off their credit or fees on time or has records of non-payment.<sup>36</sup> Accordingly, FI concludes that the bank cannot deny someone a payment account with basic features on the basis that the consumer has poor finances. The services in question under no circumstances encompass credit that requires creditworthiness. If the bank fears that products that do not encompass credit may still become overdrawn, it is the bank's responsibility to minimise this risk without this affecting the consumer.

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### **Strong customer authentication is now required for all payments**

The second Payment Services Directive<sup>37</sup> was incorporated into Swedish law on 1 May 2018 through amendments to the Payment Services Act. As of 14 September 2019, the regulatory framework's technical standards<sup>38</sup> became applicable. The technical standards contain certain security requirements. One of these requirements is that consumers need to use what is known as strong customer authentication when they initiate an electronic payment transaction.<sup>39</sup> The purpose of the stricter requirements is to make payments more secure and reduce the risk of fraud.<sup>40</sup> Implementation has been delayed as the payment services market within

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<sup>36</sup> Govt Bill 2016/17:129, p. 35.

<sup>37</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC was published on 23 December 2015 and entered into force on 13 January 2018.

<sup>38</sup> Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication.

<sup>39</sup> Strong customer authentication means authentication based on two or more elements (something only the user knows, e.g. a code, something that only the user has, e.g. a payment instrument, or something inherent to the user, e.g. the user's fingerprint) that are independent of one another, so that if someone breaches one of the elements, this does not compromise the reliability of the other elements.

<sup>40</sup> The police national fraud centre's statistics show that card-not-present (CNP) fraud declined by 24 % in 2020. This decline is thought to be partly explained by the introduction of the provisions in the second Payment Services Directive. NBC, December 2020.

the EU was not fully prepared to be able to comply with the new requirements. However, all firms in the EU have to apply the new regulations from 1 January 2021. If strong customer authentication has not been used in e-commerce, the payment service provider is liable for the full amount of unauthorised transactions, provided the consumer has not contributed to the unauthorised transactions through what are known as fraudulent proceedings.<sup>41</sup>

FI welcomes the news that the requirements concerning strong customer authentication have finally begun being applied by all payment service providers in the EU. In 2020, FI participated in several meetings with representatives of the industry, and in the European Banking Authority's (EBA) work with supervision, cooperation and consistent interpretation and application of the regulatory framework.

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## SWITCHING BANKS

There is a procedure for switching banks that makes it possible for a consumer to turn to the bank that they would like to become a customer of and get help to switch bank within a few days.<sup>42</sup> In the report on the implementation of the Payment Services Directive in Sweden, FI concludes that the procedure for switching banks works well and leads to few complaints. In the few cases where errors occur, the consumers are normally compensated.

One product that causes some problems when switching banks is e-invoicing. The consumer themselves must change the payment details for the new account and practical difficulties can occur. It is concluded in the report that even though the banks do not formally consider e-invoicing to be a banking product, there may be grounds for the banks to revise the bank switching procedure in this respect. Many consumers have linked e-invoicing to their online bank and the aim of the legislation is that no one should refrain from switching banks just because it is complicated.

## CONSUMER CREDIT

In 2020, FI conducted its third annual survey of the market for consumer credit. Just as before, the survey showed that the majority of consumer credit concerned small amounts with high effective interest rates. Compared to the data from spring 2018, the effective interest rates were lower. This can be explained to a large extent by the new regulations concerning high-cost short-term credits that came into force on 1 September 2018. Aside from the reduced interest rates, these new regulations meant that lending of unsecured loans of under SEK 50,000 decreased by 25 per cent.

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<sup>41</sup> Chapter 5a, Section 5 of the Payment Services Act.

<sup>42</sup> Chapter 4 of Finansinspektionen's regulations (FFFS 2018:4) regarding activities of payment service providers. *Byta bank – så här går det till* [Switching bank – how it is done], Swedish Bankers' Association.

The survey also showed that it was often those consumers with the highest incomes that were taking out the largest loans. Consumers who already had an existing loan when they took out the new loan paid a little over one quarter of their income after tax in interest and amortisation payments. There is a risk that many of the latter would have repayments problems if, for example, the interest rate were to increase or they were to lose their jobs because the credit service payments would account for a large portion of their disposable income.

Information from the consumer credit survey has also been subject to specific FI analyses. FI has evaluated the new regulations concerning high-cost credits<sup>43</sup>. These included the introduction of an interest rate and cost ceiling and a limit on the extension of these loans. The analysis shows that the number of new high-cost credits decreased sharply after the reform and that many firms had stopped issuing this type of loan. The interest rate ceiling of 40 per cent has had a standardising effect – from both below and above – in that over 96 per cent of the new high-cost short-term credits in 2019 had a nominal interest rate of between 38 and 39.5 per cent. Almost no new loans were issued in this bracket in 2018. This standardisation from below may partly be explained by the fact that some loans have vanished from firms' ranges but also because some lenders that were previously offering lower interest rates may have seen an opportunity to increase their rates towards the threshold. The analysis concludes that the interest rate ceiling has had a major impact on the nominal interest rate of high-cost credits.

## MORTGAGES

FI published its ninth mortgage report in 2020. This report shows that new mortgagors still have good margins for servicing their loans, even under weaker economic conditions. More households than before could handle higher interest rates without experiencing a deficit in their cash flow. Nevertheless, a slightly higher proportion of households had a monthly deficit in the event of loss of income in 2019 than in previous years. The increase refers primarily to single-person households. The measures FI has taken in recent years to reduce the risks associated with household debt have increased households' resilience. See page 7.

## PRODUCT GOVERNANCE AND INVESTMENT ADVICE

In 2020, FI continued to review how investment firms, insurers and insurance intermediaries are applying the requirements concerning product governance, advice and inducements.

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<sup>43</sup> A loan is defined as a high-cost credit in Section 2 of the Consumer Credit Act if the effective interest rate is higher than 30 per cent plus a reference rate, and it does not pertain primarily to a purchase on credit or a mortgage.

For insurers, FI has, among other things, conducted investigations of policy documents for product governance for a number of firms with unit-linked insurance operations. All firms have established a written policy for product governance that encompasses the measures and procedures required under the regulatory framework. Experience from these investigations will form the basis of future supervision.

EIOPA's report on product governance provides insurers and insurance intermediaries with important guidance.<sup>44</sup> In this report, EIOPA describes its perspective on the supervision of product governance, but also provides firms with guidance on the applications of the rules. This includes what the firms' policy documents should contain and how their processes should be designed.

In 2021, FI will be focusing on firms' compliance with the requirements concerning product governance and advice. See also Page 15.

### SURVEY OF SUITABILITY ASSESSMENTS

In the period 2019–2020, ESMA initiated a joint supervisory activity concerning the new requirements for suitability assessments and statements on suitability that apply by virtue of MiFID II. The aim was to share experience and compare general conclusions on how the rules are being applied. The supervisory activity was performed by FI and its counterparts in other EU countries in 2020. As part of this process, FI surveyed how a number of firms have organised their procedures for suitability assessment and statements of suitability in conjunction with investment advice. The survey primarily encompassed questions about the firms' own assessments and their procedures and is not a qualitative review of these procedures. It shows that the firms are generally collecting sufficient information about consumers in order to provide advice. The scope of the information that is collected is, to some extent, dependent on the amount of money and the products to which the advice pertains. In so much as the firms are assessing the consumer's expertise and risk profile, there is some degree of self-assessment involved. It is FI's opinion that self-assessment entails a risk of the consumer overestimating their own expertise and capacity to bear risk. One common method for counteracting this is to check self-assessments using control questions.

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#### **Supervision report: Financial instruments with crypto-assets as underlying asset**

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<sup>44</sup> EIOPA's approach to the supervision of product oversight and governance, 8 October 2020.

On 22 February 2021, FI published a supervision report on financial instruments based on crypto-assets.<sup>45</sup> This report is based on a survey of financial instruments based on crypto-assets that FI conducted in 2020.

In this report, FI notes that there are risks for consumers when purchasing financial instruments that have bitcoin or other crypto-assets as the underlying asset. Crypto-assets differ significantly from many other assets underlying financial instruments as they do not have any inherent value. This makes it very difficult to reliably value them. They are volatile, complex and it is difficult, if not impossible, to predict how the price of the financial instruments will develop. In this report, FI calls on consumers to think carefully before buying financial instruments that contain crypto-assets. These instruments are unsuitable for the majority of consumers, if not all. FI places strict requirements on firms subject to our supervision to maintain a high level of consumer protection. FI concludes that the consumer protection regulations that govern crypto-asset trading are often inadequate. This is especially the case where crypto-assets are bought or sold directly. There is a high risk of consumers losing the money they have invested. FI will continue working to increase consumer protection in this area.

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## SURVEY OF INSURERS' DISTRIBUTION CHANNELS

In autumn 2020, FI conducted a survey of insurers' life insurance distribution channels.<sup>46</sup> In order to reduce the risk of consumers buying unsuitable insurance products, insurers must choose suitable distribution channels and, where they use external insurance distributors, inform these of the target group for the product. From the insurer's perspective, the risk of products being distributed outside of the target group increases when distribution takes place with the help of external distributors.

The survey shows that a large part of the distribution of insurance products takes place through external distribution channels. Insurance intermediaries are the dominant channel, while distribution via credit institutions is particularly common for unit-linked insurance and deposit insurance. The survey also shows that some insurers are using a very large number of external insurance intermediaries, sometimes several hundred. The next stage will involve FI conducting supervisory activities that focus on insurers' responsibility for their distribution channels.

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45 FI Supervision Report: Financial instruments with crypto-assets as underlying asset, no. 21, Finansinspektionen, 2021, FI Ref 21-3874.

46 FI Supervision: Distribution of Life Insurance, no. 20, Finansinspektionen, 2020, FI Ref. 20-11794. The in-depth analysis did not encompass occupational pensions included in collective agreements or insurance policies that are not subject to competition because FI deems the risk to be lower for these.

## SURVEY OF FUND MANAGEMENT FEES

FI has conducted a survey of all active Swedish UCITS and special funds (UCITS-like AIFs).<sup>47</sup> This included fixed and performance fees. The fee structure is important as the fees are a cost that reduces the value of the consumer's fund holdings. The survey encompassed 742 funds, of which 556 are Swedish UCITS and 186 special funds from 70 fund management companies, including the state pension fund AP7. A fixed fee consists of the management fee that is taken from the fund as remuneration for the fund management company for managing the fund. Remuneration for the fund management company also has to cover costs for depository services, supervision and auditors.

A performance fee is designed such that the investor, in addition to the fixed fee, pays a portion of the fund's return to the fund management company. When using performance fees, the funds use a return threshold in order to measure the fund's performance. A fee is payable for a return that is above the threshold. It is important that the return threshold is consistent with the fund's investment policy, targets and strategy.

FI will continue monitoring funds' fee models. FI would like to issue a reminder that, as of 5 January 2021, there are new guidelines on performance fees that, among other things, make it clear that fund management companies' fee models should adhere to the principles of acting honestly and fairly in conducting their business activities, and that the fund and its investors must not be charged for undue costs. The guidelines also contain a common standard for consumer information about performance fees.<sup>48</sup>

## ANALYSIS OF LIQUIDITY RISKS IN FUNDS

In 2020 FI conducted a survey of all Swedish managers of UCITS and special funds. FI requested information and quantitative data in order to gain an overview of these funds' liquidity risks and how they are managed. The response show, among other things, that many fund management companies are not differentiating between different funds and are instead using a general wording to describe liquidity risk in the key investor information document (see page 23).

Based on the results of the survey, FI has conducted an in-depth analysis of nine managers of Swedish UCITS that invest in corporate bonds or shares in small companies. These funds are generally more exposed to liquidity risks as the volume of trade in these assets is often small and the information about what is a fair price for corporate bonds (the transparency) is more likely to be unsatisfactory. Consequently, there are greater demands placed on the firms' processes with respect to liquidity risk management to protect the

<sup>47</sup> The survey pertained to funds as at the final business day of 2019.

<sup>48</sup> ESMA guidelines on performance fees in UCITS and certain types of AIFs, ESMA34-39-992.

interests of unit-holders and ensure they have the opportunity to immediately redeem their units. As part of these in-depth analyses, FI has collected and analysed information about the firms' procedures for liquidity risk management and has published a memorandum containing the most important observations.<sup>49</sup>

In addition, FI has analysed the liquidity situation in 22 corporate bond funds, focusing on the funds' liquidity profile before, during and after the stressed period in spring 2020. In spring 2021, FI intends to publish a supervision report containing the observations shown by the analysis and FI's expectations with regard to fund management companies' liquidity risk management.

## INVESTMENT FRAUD

FI receives a large number of complaints in which consumers have fallen victim to various types of fraud. This often involves losing large sums of money. The fraud takes many forms but often involves abusing a relationship of trust (known as social manipulation). The number of cases concerning investment fraud received by FI increased in 2020. Offers concerning small investments in CFDs (contracts for difference)<sup>50</sup> linked to various forms of securities are most prevalent. Often the consumer has provided their contact details via a website or social media and has then been called with the offer of making an initial small investment. There have then been more calls with further offers of investments in fake or non-existent assets. In some cases, consumers have been tricked into investing many times and have lost large sums.

FI has a warning list of firms that operate in a market without having the requisite authorisation or without being registered with the supervisory authority in the country. In 2020, FI made decisions to issue warnings in 22 cases based on incidents in the Swedish market. The majority of these warnings involved firms that offer fake investments in CFDs. In several cases, the effect of these warnings has been that the websites involved have closed down. Other warnings on the warning list are based on incidents outside of Sweden where FI has received warnings from foreign authorities and has decided to link to these. A total of just over 2,000 such warnings were published in 2020. This is an increase of around 35 per cent compared with 2019.

FI has used various means to disseminate information and warn of the problem of investment fraud. These include interviews where there has been a lot of media interest. Articles have also been written, including on fi.se and via the network Gilla Din Ekonomi's Facebook page. In autumn, FI also produced a short information film in order to

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49 *Tillämpliga regler och FI:s förväntningar när det gäller likviditetsriskhantering i fonder*  
[Applicable rules and FI's expectations in terms of liquidity risk management in funds],  
Finansinspektionen, 2021, FI Ref. 21-77.

50 A CFD is a type of derivative.

inform and warn consumers. In addition, FI has engaged in a dialogue with the police with regard to issues relating to investment fraud.

## CHANGES TO THE OCCUPATIONAL PENSION REGULATIONS

New regulations concerning occupational pension firms were introduced at the end of 2019. These mean that insurers that conduct occupational pension operations can apply to convert to occupational pension firms. The implications of the regulations include that a risk-based capital requirement has been introduced for occupational pension operations in order to ensure a high level of consumer protection. Over the course of 2020, FI has processed applications for conversion to occupational pension firms, primarily from occupational pension funds. In conjunction with these applications FI reviews whether the firm is complying with the capital requirement.

At the behest of the Riksdag, the Government has proposed a number of legislative amendments for occupational pension firms in order to further ensure that current and future pensioners are adequately covered. One of the legislative proposals is that the central employee and employer organisations be given the right to determine the content of the information that is to be provided to, among others, those who are covered by occupational pension insurance provided on the basis of collective agreements. They will also be able to determine when, how and from whom this information is to be provided. This type of freedom of contract currently applies to insurance policies issued by insurers.

It is proposed that these changes enter into force in spring 2021. Some of the proposals mean that FI will be amending its regulations for occupational pension firms. FI intends to present a proposal in spring 2021.

## CHANGES TO RULES ON TRANSFER AND SURRENDER OF INSURANCE POLICIES

New provisions in the Insurance Business Act came into force in January 2020. They clarify and place limits on which fees insurers and occupational pension firms are allowed to charge when endowment policies are surrendered and when transferring the capital in private pension insurance policies and individual occupational pension insurance policies (i.e. not those based on collective agreements) to another firm. At present, these fees are only allowed to correspond to the direct costs of the firm's administration and residual acquisition costs that are directly attributable to the policy. The firm may not charge any fee for residual acquisition costs more than ten years after the insurance contract was entered into. As a result of these legislative

changes, FI drew up regulations for these fees.<sup>51</sup> They entered into force on 1 March 2020.

In February 2021, the Riksdag decided on further limitations to the fees for individual unit-linked and deposit insurance policies. As of 1 April 2021, firms may only charge a fee on these policies for the direct costs of administration and thus not for residual acquisition costs. The fees shall also only amount to a maximum of approximately SEK 600. If the value of the policy is no more than one price base amount (*prisbasbelopp*, SEK 47,600 in 2021), the firm is not able to charge any fee at all. FI has a positive view of a more effective right to transfer that gives consumers the opportunity to give up unfavourable insurance policies. FI has previously drawn attention to the issue of high transfer fees.<sup>52</sup>

### AN EXPANDED RIGHT TO TRANSFER AND SURRENDER INSURANCE POLICIES

The rules on the right to surrender and transfer individual insurance policies were introduced into the Insurance Contracts Act on 1 January 2006 and 1 July 2007, respectively. One question is whether individual unit-linked and deposit insurance contracts that have been entered into prior to these dates should be subject to the same rules on surrender and transfer as those entered into subsequently. In spring 2020, FI was tasked by the Government with establishing how many such policies there were and the extent to which they cannot be surrendered or transferred. The remit also included questioning insurers about the impact a legislative amendment of this nature would have.

FI published a report<sup>53</sup> on this assignment and was able to conclude that almost all endowment policies already have a right to surrender, regardless of when they were taken out. However, there were around half a million pension insurance policies with capital of approximately SEK 142 billion that were taken out prior to 1 July 2007 and that cannot be surrendered or transferred. If the law were to be changed, the majority of these policies would be affected through the policyholders being given the opportunity to surrender or transfer the capital to another firm. Some insurers stated that they may increase the insurance fees if the law was changed in this way. However, it is doubtful whether it is possible in practice to increase the fees given the competitive situation in the market, which several of the firms concluded themselves.

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51 FFFS 2020:1, Regulations amending Finansinspektionen's regulations and general guidelines (FFFS 2015:8) regarding insurance business.

52 See, for example, *Lägesrapport om branschöverenskommelse för ökad transparens vid flytträtt för pensionssparande* [Situation report on agreement with the industry to increase the transparency of the right to transfer pension savings], December 2016.

53 *Konsekvenser av en utvidgad rätt till återköp och överföringar* [Impact of an expanded right to surrender and transfer], 30 November 2020, FI Ref. 20-24666.

## INSURANCE FIRMS' CLAIMS HANDLING

In 2020, FI conducted investigations focusing on non-life insurance firms' claims handling with respect to home insurance. The aim of these investigations was to conduct an overarching review of claims handling and see whether these businesses were complying with the requirement for good insurance standards under the Insurance Business Act. FI focused on issues relating to the insurers' processes and procedures, complaints handling and the work of control functions.

All in all, FI was able to conclude that the firms investigated have procedures handling claims involving fire, theft/burglary, water and personal property within the home, irrespective of whether it is a house, tenant-owned apartment or rental apartment that is insured by the policy. FI also found that the internal control functions have reviewed certain issues linked to claims handling. Claims handling by the firms investigated is compliant with the requirements placed on claims handling by good insurance standards.

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### **Insurers' complaints handling**

One way to measure whether insurers are acting in the best interests of the customer is to analyse, on the one hand, the firms' procedures and processes for complaints handling and, on the other, how firms use complaints for analysis and to make improvements within the firm.

If a customer does not have the opportunity to present tangible dissatisfaction with the handling of a financial service or product to an insurer in a simple way, there is a risk of firms not treating consumers fairly, honestly and professionally when it comes to, for example, premiums, claims handling and product range. If an insurer is not handling and analysing complaints as a natural part of its business, this also makes it difficult to develop products that are better suited to consumers' needs.

There are indications that the handling of complaints differs from insurer to insurer in terms of what is regarded as a complaint, what complaints are recorded and how firms follow up on them. That there are differences need not be a fault, but there is a need to investigate in more detail how firms have structured their complaints handling.

Deficient procedures or lack of internal follow-up of complaints may mean that consumers do not have the opportunity to safeguard their rights in relation to the insurer and that the firm is not systematically gaining insight into any risks associated with what it is offering policyholders. FI will therefore be sending out a questionnaire about complaints handling to a selection of insurers in 2021.

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## FINANCIAL LITERACY

The pandemic has driven forward digital development within financial literacy and the ordinary training sessions have been implemented via digital channels. The courses have been adapted and reduced in length. There is still a substantial need and there are a large number of participants at each session.

FI has eight educational projects for different target groups. In 2020, FI produced new videos and a new website for the Swedish for immigrants course. The course *Trygga din ekonomiska framtid* [Secure your financial future] was digitised partly as a stand-alone online course. In addition, FI worked in autumn on reaching out with the material *Ditt barn och dina pengar* [Your child and your money]. This book is used by individual consumers and people who meet pregnant people as part of their work. It is handed out to people when they register for maternity care and is used by municipal budget and debt advisers in conjunction with parental education.

The curriculum for home and consumer studies in compulsory school was updated in 2020.<sup>54</sup> As a result of this, FI intends to resume the planning of training initiatives for home and consumer studies teachers, with an emphasis on saving and risk. Knowledge of things like spreading risk is needed in order to make conscious choices in the field of personal finance.

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<sup>54</sup> SKOLFS 2020:93, Ordinance amending the Ordinance (SKOLFS 2010:37) on the curriculum for compulsory school, preschool class and leisure-time centre.

## Requirement for regulatory development

FI continues to see a need for an inquiry to be set up to examine how credit providers could, in conjunction with the creditworthiness assessment, gain a complete picture of the debts a consumer who is applying for a loan already has. This inquiry should also investigate the feasibility of amending the legislation so that certain information about debts under collection becomes available to credit providers.

### FULL OVERVIEW OF CONSUMERS' DEBTS INCLUDING SOME DEBTS UNDER COLLECTION

According to FI's instructions, the consumer protection report shall describe what requirement there is to develop new rules in the area. In this year's report, FI is returning to the need to improve the data used in credit assessments by providing lenders with access to a complete picture of the customer's debts.

If credit providers are to be able to conduct a creditworthiness assessment in which the consumer's financial circumstances can be judged, there needs to be, among other things, external information about all of the consumer's existing debts in order to check the information the consumer themselves has provided. This is not currently possible.

There are several credit reference firms. The majority do not have information about consumers' existing loans. The information that these firms provide includes data from authorities concerning, for example, the presence of records of non-payment. When there is information about existing loans, this is about those that the credit providers that are customers of that specific credit reference firm have reported. Loans with credit providers that do not use that specific credit reference firm are not included. Loans from a credit provider that chooses a smaller, typically cheaper, credit check from the credit reference firm are also not included.

The potential for credit providers to obtain external information about all of the consumer's debts is therefore limited. This can result in consumers being granted credit that they are not able to repay. It is problematic when there is no information about smaller loans, including those that are issued by consumer credit institutions, especially for the group of consumers who are at the highest risk of ending up in a situation of over-indebtedness.

Consequently, FI proposed in last year's consumer protection report that the Government set up an inquiry to consider the feasibility of creating a system that allows credit providers to see a consumer's

entire credit history.<sup>55</sup> This would increase the potential for credit providers to conduct creditworthiness assessments based on sufficient information. By extension, this would prevent over-indebtedness.

FI can see that there is still a great need to set up an inquiry. The issue is complex and an inquiry would, among other things, need to analyse competitive aspects based on prevailing market conditions, different models for who will hold the information together (for example with a licensing procedure), which credit providers should report in data for the best possible coverage, if it will be obligatory for credit providers both to report data and to use this information, and what remuneration could be payable for providing and retrieving data.

The Credit Information Act (1973:1173) is applicable to credit reference activities. The primary purpose of this act is to protect the privacy of those who are registered, but is also intended to contribute to making credit checks effective. Section 5a of the act specifies which firms are included in the circle of firms that are able to exchange information about credit issued, payment defaults and misuse of credit for the purposes of credit checks without this being considered a violation of the confidentiality that normally applies. This applies to, for example, banks, sales financing companies and consumer credit institutions.<sup>56</sup> However, information about, for example, debts with firms in the retail sector that offer credit themselves (such as mobile operators) and debts with debt collection agencies may not be included in a credit check.

The fact that consumers' debts that are with a debt collection agency cannot be included in a credit check may be a problem. It is estimated that debt collection agencies are holding consumers' debts amounting to approximately SEK 80 billion.<sup>57</sup> Between 2008 and 2018, it is estimated that the value of these debts has doubled, which may partly go along with the rise of e-commerce. This amount includes not only debts that have arisen because of difficulties repaying credit, but also relates to, for example, rent arrears and unpaid mobile phone bills.<sup>58</sup> Of the total debts under collection, 13–15 per cent end up with the Swedish Enforcement Authority with an application for an injunction to pay and 6–7 per cent result in a notification concerning attachment.

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55 Consumer Protection Report, Finansinspektionen, 2020, FI Ref. 19-26226.

56 The firms that are specified in the section are Swedish credit institutions, payment institutions, electronic money institutions, investment firms, consumer credit institutions, mortgage institutions and firms that have a licence from the Swedish Authority for Privacy Protection to conduct credit reference activities.

57 Refers to the principal. The amount does not include interest and fees, procedural costs etc. Debts to the state or local government are also not included in this amount. Source: Svensk Inkasso.

58 The data refer to total debts as at 31 December of each year and say nothing about how long the debt collection agencies have had the debts. Some are paid after only a few days, while others remain for a long time.

Accordingly, a large portion of consumer's debts are not visible in conjunction with a credit check.<sup>59</sup> This is a large amount of unreported data.

If debts that have been sent for debt collection are to be included in a credit register, the Credit Information Act needs to be amended so that debt collection agencies are able to circumvent the rules on confidentiality in Section 11 of the Debt Recovery Act. In addition, Section 7 of the Credit Information Act, which lays down what information about payment defaults may be included in credit checks, must be revised.<sup>60</sup>

The issue has also been brought up in a central government inquiry. At the time of the inquiry, it was possible, by comparing data from the credit reference agency UC with the Swedish Enforcement Authority's statistics, to conclude that a large proportion of the credit arrangements associated with over-indebtedness were not present in UC's data, for example quick loans, debts that were owned by debt collection agencies and invoice credit.<sup>61</sup>

However, there are several difficulties associated with debt collection agencies being included in the circle of firms that are covered by the Credit Information Act. Privacy aspects and the problems a consumer would have if credit registers contained incorrect debt collection information carry a lot of weight. For example, claims that have been contended by the consumer and have not been confirmed by a court must not appear in a credit reference agency's register. Situations must also be avoided in which a consumer incorrectly ends up in a credit reference agency's register with an indication of repayment problems simply because the consumer was away from home for a short period of time, did not check their mail, and had a debt go into collection that they then paid.

FI is of the opinion that the Government when appointing the inquiry should include the issue of the potential for certain debts under collection to be included in credit reference agencies' data. The inquiry should be tasked with finding a way to clarify which debts under collection are to be covered by the potential to exchange information in conjunction with credit checks in accordance with the Credit Information Act, for example that the debt has to be of a certain

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59 If a credit has appeared in the register of a credit reference agency that has such information at all – which is only the case for some credits issued by the credit providers that are customers of the agency – the credit is removed when it has been sent for debt collection and a flag remains.

60 Under Section 7 of the Credit Information Act, credit checks may not contain information about payment defaults other than those that have been established through a ruling or measure by a court of other authority, or have led to a decision initiating debt reconstruction or corporate debt reconstruction or to suspension of payment, an application for bankruptcy or composition.

61 *Överskuld sättning i kreditsamhället?* [Over-indebtedness in the credit society?], SOU 2013:78, pp. 229 f.

size or has been with the debt collection agency for a certain period and not been repaid. An inquiry tasked with creating a system that allows credit providers to gain a complete picture of a consumer's existing debts, including certain debts under collection, would be an important step in combatting over-indebtedness.

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### **Crowdfunding**

In previous consumer protection reports, FI has emphasised the need to strengthen consumer protection linked to crowdfunding platforms.<sup>62</sup> It has not been clear how far these platforms' responsibility stretches and there has also been a need to clarify the responsibility of project owners. In 2020, a new EU regulation was adopted that regulates lending-based and equity-based crowdfunding where the offer on the platform comes from a trader who needs capital or a loan and is targeting a consumer.<sup>63</sup> The implications of the regulation include that the platforms must have authorisation to operate, they must manage conflicts of interest and various requirements are placed on their senior management. Certain collateral must be provided for the business. The regulation imposes various information requirements, including that a specific key investment information sheet must be produced for the project and that the platforms must take responsibility for evaluating the project that is to be financed. In addition, investors are entitled to a withdrawal period of four days. It will be applied from 10 November 2021.

FI welcomes the fact that certain types of crowdfunding are now being regulated and that consumer protection is being strengthened. In the next stage, there is a need to regulate the types of crowdfunding that are not covered by the EU regulation. For example, the EU regulation does not cover lending-based crowdfunding in which the platform makes it possible for consumers to lend money to other consumers, known as peer-to-peer lending.

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<sup>62</sup> Crowdfunding occurs when capital and loans are mediated via a technological platform that bring together those looking for capital and investors. This form of financing is an alternative to more traditional funding that occurs via credit institutions and markets.

<sup>63</sup> Regulation (EU) 2020/1503 of the European Parliament and of the Council of 07 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937



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