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IMPLICATIONS OF THE FINANCIAL SECTOR ON THE CONSUMER PROTECTION ACT, 2019

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ABSTRACT

The financial sector plays a key role in economic life because it offers consumers a wide range of products and services. However, due to the complexity of financial transactions and potential harm to consumers, it is necessary to study the effects of the financial sector on consumer protection. The purpose of this study is to find out the effects of the financial sector on the Consumer Protection Act of 2019 and its effects on the welfare of consumers. The article begins with an overview of the Consumer Protection Act 2019, outlining its objectives, key provisions and scope of the financial sector. It also discusses special rights afforded to consumers in the financial sector, such as protection against misleading advertising, unfair business practices and product liability. The research also looks at redress mechanisms available to consumers, including the establishment of consumer commissions and dispute resolution forums. Case law and examples are analyzed to illustrate the application of the law in resolving consumer complaints and ensuring fair treatment by financial institutions. In addition, the document discusses the role of regulators in overseeing the financial sector and enforcing consumer protection regulations. It discusses the importance of financial literacy and consumer education to enable people to make informed financial decisions and navigate the complexities of the financial industry. By examining the impact of the financial sector on the Consumer Protection Act 2019, this study contributes to a better understanding of the legislative framework and regulation surrounding consumer protection in the financial sector.

KEYWORDS: Financial Sector, Regulations, Consumer Protection, Redressal

INTRODUCTION

The Consumer Protection Act is a social legislation passed by the Government of India to empower consumers of various goods and services to challenge the correct practices of retailers. It aims to provide rights and benefits to bona fide consumers and provide them with an appropriate mechanism for redressal of grievances. To better protect the interests of the Consumer Protection Act, 1986 was enacted in the Lok Sabha on December 5, 1986.

The law introduced the term "consumer" for the first time and gave him certain rights of publication. It is interesting to note that the purpose of the law is not to protect every consumer in the true sense of the term. The protection is for a person who meets the legal definition of "consumer". Widespread food shortages, hoarding, black marketing, adulteration of food and cooking oil gave birth to an organized consumer movement in the 1960s. Until the 1970s, consumer organizations were heavily involved in writing and exhibitions. They formed consumer groups to control food shortages and traffic congestion. In recent times, there has been an increase in the number of consumer groups in India. The consumer cooperative was born as a result of consumer dissatisfaction because many unethical practices were being sold by retailers. Consumers had no legal system to protect them from market abuse.

There have been many reforms in the banking sector, such as dilution of government holdings, deregulation, etc., which have led to increased competition. Today, banking has moved from class to mass and this has brought several problems. But more attention must also be paid to consumer protection in the banking sector. Competition helps the consumer because it encourages choice, helps bring quality services or products at low prices, reducing inefficiencies. The cost of banking services is decreasing, and consumers must take advantage of services offered in a changing environment, such as ATM, internet or phone banking, to reduce costs.

The need and importance of consumer protection is growing rapidly, especially in the Indian banking sector. In banking, we have come across many cases where consumers are deceived by a bank failure, causing financial uncertainty to innocent customers. A recent example is the Punjab and Maharashtra Cooperative Bank issue where the Reserve Bank of India ("RBI") imposed regulations and withdrawal limits on the said bank under Section 35(A) of the Banking Act, 1949. Irregularities reported to RBI, which in turn affected innocent customers.

As the regulator of the banking sector in India, the RBI has a proper responsibility to establish its strong and effective supervision over all Indian banks to ensure a transparent banking system for the citizens of this country. To achieve this, banks need to effectively coordinate initiatives, customer service departments, customer education departments, customer protection departments, bank ombudsman etc. with RBI.

India has a law that focuses specifically on consumer protection (Consumer Protection Act 1986), but it does not specifically apply to consumers in the financial sector. Consumer Protection Matrix:

- Code of Fair Practice followed by Banking Codes Standard Bureau, India (BCSBI) or equivalent banks.
- An internal compensation mechanism set up by banks
- Office of the Ombudsman
- Courts

Different functions and roles of different institutions can sometimes overlap. What the customer complains about depends on the convenience and location of the customer.

FINANCIAL SECTOR DEFICIENCIES

Section 2(1)(o) of that Act defines what constitutes a service and "lack" is defined in section 2(1)(g). The banking service also belongs to the various services mentioned in this law. "Banking service" here may include accepting deposits, paying insurance premiums, lending money, making deposits, etc. Regarding the lack of services provided by the bank, you can contact the consumer forums. According to Section 2(1)(d), a consumer is a person who uses or rents a service for payment. Therefore, anyone who has an account in a bank or uses a service bank can file a complaint about "deficiency" or inappropriate actions of banks under this law. Consumer courts not only compensate for wrongdoing, but also for emotional pain experienced or harassment experienced. The list includes some of the shortcomings of banking services that have been confirmed by consumer agencies and courts:

- Refuse to pay or withhold the amount due after the end of the deposit
- Late payment of the deposit
- Dishonor of checks due to bank error or negligence.
- Dishonor of bills due to negligence of bank officials.

- Refusal to grant a loan without a bona fide reason
- Causes undue delay in the payment of loan payments
- Pays a higher interest than agreed in the loan agreement.
- Failure to return the collateral even after repayment of the loan.
- Negligence of the bank in fulfilling the guarantee, if the claim was in accordance with the guarantee.
- The bank is responsible for the loss of things in the locker
- Losses incurred by customers due to the lack of securities in the bank
- Closing a bank account without instructions from the account holder
- Denying a customer, the option of a checkbook only because the minimum balance has not been maintained
- Leave the bank's cash with him for the money transferred to the account at the counter (reserve obligation)
- Rude behavior by bank employees that causes inconvenience or emotional distress to customers
- Without even demanding a refund and announcing "auction or payment".
- Return a bad check

BANKING OMBUDSMAN SCHEME

An alternate dispute resolution mechanism the RBI modified the scheme and introduced in 1995 for an increasing number of complaints. Banking Ombudsman is basically a senior person appointed by RBI. Since then, it has been used as the primary forum for dispute resolution. It is not bound by any precedent, and in some cases, it is not bound by procedural laws, so decisions are made on a case-by-case basis. Bank agencies also organize information camps, exhibitions, advertisements, etc. But there is also the fact that the system is limited to only 27 bases (including online banking) and therefore it is necessary to expand its reach. The scheme is fully administered by RBI. Currently, there are 15 offices in the country where complaints can be filed due to shortages. Now a customer can file a complaint under BOS if the banks do not follow the code of fair practice for lenders or the code given by BCSBI which is the code of responsibilities of the bank to the customers. BCSBI has come up with 2 sets of codes, bank engagement code for customers and other for micro or small businesses. But despite the fact that banks have now implemented these codes and have been around for so long, the quality of service still leaves much to be desired. This is evident from the numerous complaints that have arrived in the country under the banking ombudsman system. The main features of this Banking Ombudsman Scheme are:

1. **Independent Adjudication**: The Banking Ombudsman is an independent body appointed by the RBI to address and resolve complaints.
2. **Broad Jurisdiction**: The system covers a wide range of complaints and provides assistance to individual customers and small businesses.
3. **Informal and speedy resolution**: The ombudsman encourages complaints to be resolved through mediation and conciliation, which ensures speedy recovery.
4. **Binding decision**: The decision of the ombudsman is binding on the bank if the complainant accepts it. However, the complainant can approach a higher forum if he is not satisfied.
5. **Accessibility:** The system ensures accessibility by accepting complaints through multiple channels, including online, by post, by email or in person.

RECENT RULES MADE BY THE RBI FOR CONSUMER PROTECTION

The RBI recently has listed various principles for the protection of the consumers by the "Charter of Customer Rights" in the financial institutions regardless of how big their sizes are:

- **RIGHT TO FAIR TREATMENT:** Both the service provider and the financial customer have the right to fair treatment. Also, no customer should be discriminated against on the basis of age, gender, caste, creed or physical ability.

- **THE RIGHT TO FAIR, TRANSPARENT AND HONEST MANAGEMENT:** The service provider must do everything possible to ensure that the contracts he concludes are transparent in nature and such that they are easily understood and properly communicated to the common man. The price of the product, the various risks and conditions during the life cycle of the product, the customer's obligations must be disclosed. The customer must also not be subjected to undue influence or unfair or unfair business practices
- **RIGHT OF SUITABILITY**: The needs of customers must be taken into account when offering products (needs are based on the economic situation of the customer).
- **RIGHT TO PRIVACY:** The customer's personal data must be confidential, unless there is consent or this information is required by law. They have the right to protection against anything that violates their privacy.
- **RIGHT OF CLAIM**: The customer has the right to demand responsibility from the financial service provider for the products offered by him. Financial service providers must inform customers of their rights and obligations in such transactions.

FINANCIAL CONSUMER PROTECTION

Consumer protection in the financial sector means a set of laws, regulations, policies and practices designed to protect the interests and rights of consumers in their interactions with financial institutions and services. This includes various measures to ensure fair and transparent practices, promote consumer education and awareness, and provide avenues for complaint resolution.

Consumer protection in the financial sector is of the utmost importance because it helps create a level playing field between consumers and financial institutions, reduces risk and abuse, and increases trust in the financial system. Here are some key consumer protection considerations and measures:

- **DISCLOSURE AND TRANSPARENCY**: Financial institutions must provide consumers with clear, accurate and timely information about the terms, fees, charges, risks and benefits associated with financial products and services. This allows consumers to make informed decisions and avoid fraud or unfair practices. Fair treatment and non-discrimination: Financial institutions must treat consumers fairly and without discrimination. This includes fair access to financial services, equal treatment regardless of gender, age, ethnicity or other characteristics, and combating practices that exploit vulnerable consumers.
- **RESPONSIBLE LENDING AND LENDING**: Financial institutions must follow responsible lending practices and ensure that consumers are not overcharged or ripped off. This means assessing the borrower's ability to repay, offering suitable loan products and avoiding practices that lead to over-indebtedness.
- **DISPUTE RESOLUTION MECHANISMS:** Effective and easily accessible mechanisms for resolving consumer complaints and disputes are essential. These may include internal complaints handling systems of financial institutions as well as external resources such as ombudsman offices or consumer protection agencies.
- **CONSUMER EDUCATION AND AWARENESS**: Promoting financial literacy and awareness among consumers is an important part of consumer protection in the financial sector. Educated

consumers are better able to make informed decisions, avoid scams and fraudulent schemes, and protect their rights.

- **STABILITY AND SUPERVISION RULES**: Regulators play a key role in ensuring the stability and soundness of financial institutions. Stability regulations and supervisory frameworks are designed to protect consumers by monitoring the financial health and compliance of institutions, thereby reducing risks to consumers.
- **DATA PROTECTION AND SECURITY**: As the use of digital financial services increases, protecting the privacy of consumer data and ensuring strong cyber security measures are critical. Financial institutions must comply with strict data protection laws and implement secure systems to protect consumer information from unauthorized access and misuse.
- **CONSUMER REDRESS AND COMPENSATION**: In cases where consumers are harmed by the actions of financial institutions, compensation or reimbursement mechanisms should be in place. This may include refunds, penalties for non-compliance or other corrective measures.

BACKGROUND OF FINANCIAL CONSUMER PROTECTION

- **10 TOPIC AREAS:** The 2011 Principles included 10 topic areas that reflect marketing and consumer issues, including equal and fair treatment of consumers, disclosure and transparency, and financial education.
- **TWO PRINCIPALS WERE ADDED:** In October, these principles were approved by the fourth meeting of finance ministers and central bank governors. In 2022, two additional principles included access and inclusion and quality financial products.
- **RECOMMENDATION FOR INTERVENTION:** The updated principles also recommend that regulators intervene in certain risky products, develop an appropriate corporate culture and use behavioral insights to achieve better outcomes for consumers.

THREE PRINICPLES WITH CROSS CUTTING THEMES

I. FINANCIAL WELL-BEING

- **Individual financial well-being**: The OECD's working definition of "individual financial well-being" refers to control, security and freedom over one's current and future financial resources.
- **Simple information to consumers**: an effective FCP system must provide sufficient and easy-to-understand information to consumers. But mere observational data collection defeats this purpose, especially in India where financial literacy is not universal.
- **Service Provider Risk Profiling:** Regulators such as SEBI require certain financial service providers to assess customer suitability and prepare risk profiles before providing services.
- **India does not recognize this subject**: India does not currently recognize this concept. Going forward, one can consider facing challenges like financial illiteracy and financial hardship.

II. DIGITIZATION UNDER FCP

- **Growing number of digital channels in the financial sector**: FCP must take into account the growing number of digital channels that consumers use to interact with financial products and services, as well as the impact of the increased use of artificial intelligence and other emerging technologies.
- **RBI Digital Lending Guidelines:** In September, the RBI issued guidelines for digital lending that mandate digital lending service providers to use a complaint tracker, assess the borrower's

creditworthiness before extending credit and allow the borrower to exit without penalty.

- **Poor handling of complaints**: Additionally, the handling of complaints against payment service providers in the UPI ecosystem is a matter of concern. With UPI transactions on the rise and cryptocurrencies largely unregulated, FCP remains relevant.

III. SUSTAINABLE FINANCE UNDER FCP

- **A multidimensional approach**: consumer demand for sustainable financial investments is growing. Financial service providers incorporate environmental, social and governance factors into their operations, products and services.
- **Transparency matters:** FCP recommends greater transparency so consumers can make informed choices.
- **SEBI's BRSR:** SEBI has moved from "Business Responsibility Reporting" to "Business Responsibility and Sustainability Reporting" (BRSR) to promote responsible climate change management. BRSR Mandatory Disclosure: BRSR compliant firms must provide certain information, including a sustainability report. In this way, investors can make informed decisions. Similar information must be provided in other market segments.

The Narasimhan Committee is analyzing banking and financial sector reforms in key areas. The commission recommended the inclusion of the Ombudsman Scheme (1995) as part of reforms to financial sector policies and systems. On this basis RBI accepted the proposal and as part of the banking arrangement. The scheme issued was in accordance with the provisions of the Banking Regulation Act, 1949 and covers all Scheduled Commercial Banks and Principal Co-Agent Banks doing business in India.

LAWS APPLICABLE UNDER THE CONSUMER PROTECTION ACT, 2019

According to the Consumer Protection Act, 2019, India has a number of laws and regulations to protect consumers in the financial sector. Here are some of the statutes used to protect consumers financially, along with relevant case law and examples.

1. **MISLEADING ADVERTISEMENTS (SECTION 2(28), SECTION 43, SECTION 36):** The law prohibits misleading advertising that may mislead consumers about the nature, quality or characteristics of financial products or services. In the case of ***Hindustan Unilever Limited Vs. The Consumer Disputes Redressal Commission of the Advertising Standards Council of India***[1] has said that misleading advertisements that create a false impression about financial products violate consumer rights.
2. **UNFAIR TRADE PRACTICES (SECTION 2(47), SECTION 18):** The Act prohibits inappropriate business practices by financial institutions that may exploit or deceive consumers. In ***ICICI Bank Limited v Ramesh Gupta***, the National Consumer Disputes Redressal Commission held that charging excessive interest by a financial institution is an unfair trade practice.
3. **PRODUCT LIABILITY (PART 2, SUBSECTION 34, SECTION 84)**: According to the law, financial institutions are liable for damages caused to consumers by errors in financial products or services. In ***New India Assurance Company Limited Vs. Abhilash Jewelry National Consumer Disputes Redressal Commission***[2] held the insurance company liable for loss to the consumer due to defective policy.
4. **CONSUMER COMPLAINT (PARAGRAPH 14, PARAGRAPH 18 OF SECTION 2):** The Act

[1] *ICICI Bank Limited v Ramesh Gupta (CS (COMM) 1117/2018)*
[2] *New India Assurance Company Limited Vs. Abhilash Jewelry National Consumer Disputes Redressal Commission (CIVIL APPEAL NO. 7972 OF 2002)*

establishes consumer commissions at the national, state and regional levels to provide a mechanism for redress of consumer complaints in the financial sector. Example: Consumers can complain to the Consumer Commission about financial institutions, such as non-payment of insurance claims, unfair loan collections or misleading financial products.

5. **CONSUMER EDUCATION AND TRAINING (ARTICLE 94):** The Act emphasizes the importance of consumer awareness and education programs to empower consumers to make informed financial decisions. Example: Regulators such as the Reserve Bank of India (RBI) and the Securities and Exchange Board of India (SEBI) conduct awareness campaigns and provide educational materials to improve consumer end literacy.
6. **DATA PROTECTION AND SECURITY (SECTION 103):** The law contains regulations on protecting consumer data protection and ensuring secure processing of personal data by financial institutions. Example: Financial institutions must adhere to data protection and cyber security standards set by the RBI, such as data localization requirements and the Payment Card Industry Data Security Standard (PCI DSS).

REMEDIES ON FINANCIAL INSTITUTIONS BASED ON THE CONSUMER PROTECTION ACT, 2019

The Indian Consumer Protection Act, 2019 provides several remedies to consumers in the financial sector. The purpose of these remedies is to address complaints, compensate damages and ensure fair treatment. Here are some of the main remedies available under the Act:

1. **COMPENSATIONS AND REFUNDS:** The law provides for damages and compensation for consumers who have suffered damage due to unfair trade, a defective product or a lack of service. ***M/S Ananda Bazaar Patrika Vs. In the West Bengal State Consumer Disputes Redressal Commission case[3],*** the State Consumer Disputes Redressal Commission ordered a bank to reimburse a customer's credit card overcharges and awarded compensation for emotional distress.
2. **REPLACEMENT OR REPAIR OF FAULTY FINANCIAL PRODUCTS:** Consumers have the right to demand the replacement or repair of damaged or non-compliant financial products. Example: If a customer purchases insurance that does not cover the stated policy, they can apply for a replacement policy or change their existing policy.
3. **CANCELLATION AND REFUND**: The consumer have the right to cancel financial transactions within a certain period of time and demand the return of the amount paid. Example: If a consumer purchases a financial investment product and later discovers that it does not match their investment goals or risk tolerance, they can cancel the transaction and receive a refund.
4. **CORRECT AND STOP IMPROPER ACTIVITIES:** The law empowers consumer forums to order financial institutions to correct and stop inappropriate business practices. In ***HDFC Bank Limited v. Vinod Kumar[4],*** the National Consumer Disputes Redressal Commission ordered the bank to correct erroneous credit card charges and refrain from imposing similar charges in the future.
5. **PENALTIES AND FINES:** Financial institutions found guilty of violating consumer protection laws may face penalties, fines or other penalties. Example: A non-banking financial company (NBFC) indulging in misleading

[3] *M/S Ananda Bazaar Patrika Vs. In the West Bengal State Consumer Disputes Redressal Commission (C-241/2003)*
[4] *HDFC Bank Limited v. Vinod Kumar (ARBT No. 1105/2017)*

advertising can be fined under the Consumer Forum Act.

6. **PROHIBITIONS:** Consumer forums have the power to issue injunctions to prevent financial institutions from engaging in unfair trading or misleading advertising. In ***ICICI Bank Limited Vs. Nandakumar Bhaskaran***[5] issued an injunction from the National Consumer Disputes Redressal Commission, barring the bank from taking refunds against the customer until the complaint is resolved.
7. **DISCLOSURE OF ORDERS:** Consumer forums can order the publication of information about unfair dealings or irregularities by financial institutions to warn consumers and prevent similar violations. Example: a consumer forum can require a financial institution that has engaged in misleading advertising to publish corrective advertisements informing consumers of previously made misleading claims.

CONCLUSION

The financial sector implications for the Consumer Protection Act 2019 are important in terms of protecting consumer rights, ensuring fair practices and promoting transparency and accountability. The law brought several changes and added special provisions that directly affect the financial sector.

First, the law empowers consumers by giving them clear rights and remedies when dealing with financial institutions. It prohibits misleading advertising, unfair business practices and establishes product liability and holds financial institutions accountable for harm caused to consumers by their products or services. This helps create a level playing field and instill confidence in consumers when they interact with the financial sector. Second, the law establishes a strong mechanism to resolve consumer complaints in the financial sector. It will establish consumer commissions at national, state and regional levels and provide consumers with user-friendly forums for redress and redressal of their grievances. This mechanism ensures that disputes are resolved in a timely and efficient manner, thereby increasing consumer confidence and satisfaction.

In addition, the law emphasizes the importance of consumer education and awareness in the financial sector. It recognizes that consumers must be well informed and empowered to make informed financial decisions. Regulators and financial institutions are encouraged to implement initiatives and campaigns to improve consumer end literacy, helping them navigate the complex landscape of financial products and services.

In addition, the Act places significant responsibility on regulators such as the Reserve Bank of India (RBI) and the Securities and Exchange Board of India (SEBI) to enforce consumer protection rules and ensure compliance by financial institutions. These regulators play a key role in monitoring and controlling the financial sector to prevent inappropriate practices, protect the interests of consumers and maintain the stability of the financial system.

In summary, it can be stated that the effects of the financial sector on the Consumer Protection Act of 2019 are aimed at securing consumer rights, strengthening consumer protection and promoting a fair and transparent financial ecosystem. The law provides clear guidelines, means and channels for refunds that strike a balance between the interests of financial institutions and the well-being of consumers. The Act promotes trust, healthy competition and sustainable economic growth by ensuring accountability and fair practice in the financial sector.

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