

**International principles & approaches to
systemisation & codification of consumer
protection legislation in financial services**

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National legal codes

- French Napoleonic code 1804, consumer code 1992, revised 2016;
- Quebec 1866 private law code, revised 1991: *'technical & legal', 'internal harmony', 'consistent language.'*
- Brazilian consumer protection Code 1990;
- Russian CP Act 1992; Federal law of 1996 on Part 2 of Russian civil code.

Brazilian consumer protection code

- General provisions (eg defines consumer);
- National consumer relations policy (vulnerability, institutions, consumer associations);
- Basic consumer rights (eg UN guidelines);
- Product quality, safety and liability;
- Commercial practices (eg advertising)
- Contractual protection (eg unfair terms)
- Administrative sanctions (judicial institutions).
- National plan as Annex

French consumer code

- Sub-category of business law. 1993 legislative part. 1994 regulatory.
- Both revised in 2016. Cross reference to official journal.
- 5 books: each repeated in legislative and regulatory parts.
 1. Consumer information & contract formation: (consumer information, commercial practices, general contractual provisions, administrative agents powers and judicial proceedings).
 2. Conformity & safety of products & services: (conformity, safety).
 3. Indebtedness: (see next slide)
 4. Consumer associations (approval, legal actions)
 5. Institutions (*Institut National de la Consommation*, testing laboratories).

Book 3 French consumer code- Indebtedness

Legislative: Title 1: credit, **Chapter 1:** consumer credit, **section 1** area of application, s.2 advertising, s.3 free credit, s.4 credit contract, s.5 connected credit, s.6 early repayment & debtor default, s.7 penalties, s.8 proceedings. **Chapter 2:** credit for land purchase. **Ch 3** common provisions (eg interest rates, usury rate).

2. brokers & settlement of debts,

3. handling situations of over-indebtedness,

4. guarantees

Regulatory: titles as above

Substantial revision in 2016, complementary to monetary & financial code.

Codification or framework laws?

- Conceptual & textual coherence;
- Strategic planning;
- Integration of CP law with other law;
- Public profile; (example Brazil)
- Judicial profile; (example France)
- Ease of reference;
- Horizontal principles / vertical (sectoral) law; (this point highly specific to CP).

Financial services code?

- FS only 5% of applications to Rospotrebnadzor;
- But very large & growing sector;
- Recent developments in sectoral FS institutions: separation of business conduct from prudential regulation; examples:
- US Financial Consumer Protection Bureau;
- UK Financial conduct authority;
- European Banking Authority has prudential and CP mandates;
- G20/Financial Stability Board; FSB recognised relevance of CP in 2011;
- Should FS code cover institutional architecture?

Relevant international instruments

- OECD/G20 High level principles on financial CP – 2011;
- UN Guidelines for consumer protection, revised 2015 to include FS;
- OECD recommendation: CP in e-commerce, revised 2016;
- Financial stability board report on credit, 2011.
- + World Bank recommendations to Russia on good CP practices and financial literacy; 2009 to present.

Gaps in international principles

- Bank deposit guarantees;
- Responsible lending;
- Remittances; (Russian experience compares well to elsewhere);
- Privacy & data protection; (recent developments in EU)
- Proportionality principle;
- Limitations on consumer liability;
- Applicable law & jurisdiction cross-border.
- Institutional gap: CP agencies often do not have jurisdiction over FS but central banks don't do much about CP.

Elements of way forward

- Existing Russian civil code is vast but there are FS provisions. Can they be extracted and linked to sectoral legislation?
- High current volume of FS reform (status report 2016): are legal texts in harmony?
- How fully do Russian laws & practice address above international principles, to which Russia has contributed?
- But: Do not let codification delay reform.



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