

**Moneylife Foundation**

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**18<sup>th</sup> April 2013**

Dr D V Subbarao  
Governor  
Reserve Bank of India

**Sub:** Unchecked mis-selling by bank relationship managers

Dear Dr Subba Rao

In running Moneylife Foundation, an organisation engaged in providing financial literacy, we regularly hear shocking stories of consumers being mis-sold investment products. Over the past few years, banks' relationship managers have been particularly brazen in recommending financial products to their customers while completely disregarding their financial situation. It is commonplace to hear of a senior citizen being conned into investing in a mutual fund, unit-linked insurance plan or a hybrid-derivative product on the promise of higher returns. In many cases, private bank executives go over to their homes and persuade them to break secure fixed deposits and invest the money in Unit Linked Insurance Products (ULIPs) with the false assurance that these are as safe as fixed deposits and offer a higher return and security.

Banks have a fiduciary responsibility to their customers since they are privy to their financial details. Instead, in the name of liberalisation and adopting global practices, we have allowed banks to access this financial information and exploit it to sell products that are damaging to the financial health of an individual. Regulators around the world stood by and allowed it to happen. This eventually played a role in the global financial crisis which is far from over. Given India's low level of literacy or language barriers to understanding complex financial products. Such hard-selling, scheming bankers are aptly described as banksters these day – but operating with a license to cheat from top management. If you allow banksters to destroy public faith in banks, it can only have a deleterious effect on our financial system and the economy. We request you to step up customer protection measures to correct the damage that is already done.

Moneylife Foundation and our sister publication Moneylife have repeatedly brought many such cases to your attention. Importantly, the RBI is fully aware of the dimensions of this problem. In the foreword to the Annual Report on the Banking Ombudsman Scheme 2011-12, Dr K C Chakrabarty writes, "The incentive structures governing sale of different financial products and services tend to result in mis-selling. It is frightening to imagine a situation where the front line staff at banks may be more interested in pushing insurance and para-banking products instead of promoting core banking products."

Dr Chakrabarty further says, “The role of the top management of banks becomes very crucial in formulating product and service delivery and pricing strategies with a clear focus on fair treatment of customers, appropriate disclosure of product features and risks and suitability of “sell” for different segments of customers.”

Yet, in the recent case of 79-year old Mangelal Sharma who was missold a third-party mutual fund (DWS Hybrid Fixed Term Fund Series 10 Growth) by IndusInd Bank managers, the RBI Ombudsman had rejected the senior citizens’ appeal without a detailed study of the case. While pressure of bad publicity forced IndusInd bank to return Mr Sharma’s money, this is not true in many other cases. The RBI has been similarly unmoved

**Unsuitability of sell:** Dr K C Chakrabarty believes that banks’ top management should ensure that suitable products are sold to different segments of consumers. But this cannot happen when an army of relationship managers are working to very stiff sales targets set by the bank, especially when there is no penalty for misselling.

This problem is not new. We have been pleading for RBI intervention for a very long time. When the RBI set up the Damodaran Committee on Customer Services, we expected this issue to be taken up seriously. Yet, despite 13 months of deliberation, the committee failed to even address this issue. This was a serious missed opportunity, because, after the Talwar Committee of 1975, the Goiporia Committee of 1990 and the Tarapore Committee of 2004, the Damodaran Committee on customer services was supposed to take us to the next level of review and recommendations to improve service delivery to bank customers.

In August 2011, Sucheta Dalal wrote in Moneylife: “One of the biggest omissions is the absence of a detailed discussion on the rampant mis-selling of financial products-including insurance, mutual funds and derivatives or structured products by target-driven Relationship Managers and Wealth Managers. For instance, Osian’s Art Fund, the collective investment scheme, which SEBI failed to regulate, was hard-sold by wealth managers of a foreign bank. Importantly, the high attrition rates among this category of officers ensure that they never carry the can when their false promises and fake guarantees come to light”. On 16<sup>th</sup> April, the Securities & Exchange Board of India (SEBI) finally asked Osian’s Art Fund to wind up operations. But the RBI has still done nothing about the brazen misselling by ABN Amro Bank to its wealth management customers.

**Burden of proof:** The Banking Ombudsman regulations are clear that the burden of proof in cases of misselling cannot be dumped on the customer alone. However, in practice, this does not seem to happen. In innumerable cases, the benefit of doubt is given to the banks and customer complaints dismissed out of hand.

We are aware that the RBI is fully aware of problems as well as solutions. This was evident from Dr K C Chakrabarty’s address at a seminar on 22<sup>nd</sup> March at Pune. Among other things, he made the following important points from the customer point of view. All we are asking is to put all these points, made by your Deputy Governor into rules and best practices followed by banks:

- The presence of a credible and effective regulatory regime acts as a source of confidence and comfort in the financial system. The global financial crisis has shown that self-regulation, often, does not work and a strong, intrusive and hands-on regulator/ supervisor provides the confidence that markets will operate on sound principles and be free from unfair and unethical practices. This trust is the basis of a good financial system and any dent in the trust has a destabilising influence.
- Logically, competitive market forces ought to take care of consumer protection in the financial services sector, but this has not happened because of high entry barriers, especially in banking. Self-regulating behaviour also does not work for the poor and vulnerable segments because of 'rampant information illiteracy', making consumer protection a regulatory obligation.
- Ensuring that the financial service-providers treat their customers fairly helps. This means ensuring that products and services offered by financial institutions are suitable for the customers and appropriate to their risk profile; pricing is transparent and non-discriminatory; and the service is delivered in a speedy, safe and secure environment.
- The global financial crisis was the result of financial innovation that was unsuited to consumer requirements; when combined with aggressive sales practices and perverse compensation systems, it led to mis-selling to. Hence, financial regulators must ensure that innovation is oriented to consumer needs. A documented 'Treating Customers Fairly' (TCF) policy would regulate the design and marketing of financial products and services, the system of information dissemination, facility for after-sales support and the grievance redress.
- A market intelligence mechanism should focus on identifying products which could expose consumers to unintended outcomes. Institutions must have their ears to the ground to get a feel and understanding of evolving trends and practices. This is necessary for commercial institutions, but is also a vital input for regulators in anticipating the build-up of risks in order to take proactive action
- Although the entire financial services business revolves around the consumer, their voice is the feeblest and, very often, not heard. The inability to understand consumer needs is the genesis of all consumer protection issues. Strengthening the consumer voice in the financial regulatory system is not just in the interest of the consumer, but also for sustainability of the financial system.
- Openness to consumer needs and aspirations and a quick, just and efficient grievance redressal machinery is the key. The credibility of the banks' redressal systems needs to be reinforced by constant follow up by the regulator.
- Regulators must take responsibility for product design and their sale must be suited to the investor's risk profile.

Sir, as an organisation that represents over 21,500 savers, many of them senior citizens, we request the RBI to add just a couple of our suggestions to this excellent list drawn up by Dr Chakrabarty.

- a) Banks should go back to traditional banking and stop selling insurance and third-party products such as mutual funds, hybrid derivatives and other high-risk or locked-in products that are offered to wealth management customers.
- b) The burden of proof that a product was not mis-sold and meets the financial profile of the individual will be on the bank. This can be done by asking customers to initial specific clauses that highlight risk factors.
- c) Put in place a policy to prevent misleading advertisements and the use of celebrities to create a false sense of security.
- d) When banks sell gold, the RBI will ask them to ensure that it is strictly at the ruling market price for the day.

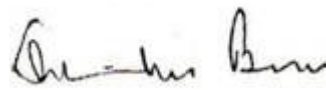
Sir, we would be happy to provide details of misselling reported to Moneylife by bank customers to back up our requests. We are also open to a meeting or discussion to explain our requests if you consider it necessary.

Many thanks for your kind attention. A line of acknowledgement from your office would be appreciated.

Yours truly,



**Sucheta Dalal,**  
**Trustee Moneylife Foundation**



**Debashis Basu**  
**Trustee, Moneylife Foundation**

CC: Dr. K. C. Chakrabarty, Deputy Governor, Reserve Bank of India  
Alpana Killawala, Reserve Bank of India