



Consumer protection in the financial area – conditions and central government supervision

Central government is responsible for ensuring that financial companies comply with the regulations that are intended to protect and strengthen consumers in the financial area. In order to achieve a high level of consumer protection, the Government must provide the regulatory agencies with the right conditions to conduct their supervision, the agencies' internal goals and processes must support fit-for-purpose supervision and their cooperation must work well.

The Swedish Financial Supervisory Authority and the Swedish Consumer Agency are responsible for supervision in this area, while the Swedish Pensions Agency is responsible for administering the range of funds in the premium pension system. The Swedish Data Protection Authority is responsible for supervision of the Credit Disclosure Act and parts of the Debt Collection Act, but is not included in the audit.

There are consumer protection aspects in several different regulatory areas. This report examines central government supervision related to regulations stipulating that consumers must be provided with the right conditions to make informed decisions based on relevant and easy-to-understand information and that financial companies must show care for the consumer and base the information on their needs and circumstances.

Supervision related to financial stability, market abuse, money laundering and terrorist financing is not audited in this report.

Audit findings

The Swedish National Audit Office's (Swedish NAO) overall conclusion is that the conditions have been strengthened in order for the Government's supervision to contribute to a high level of consumer protection in the financial area. Since the Swedish NAO's 2006 audit of the Government's supervision in the financial area, governance has become clearer and the agencies have formulated internal goals and strengthened their internal processes. Reporting on consumer problems has improved and the Government has given the Riksdag greater opportunities to assess the results of central government measures in this area.

Despite the improvements, the Swedish NAO notes that the review of statistics indicates that consumers' perceived problems have increased during the latest five-year period.

The Swedish NAO sees a number of measures that could contribute to improved conditions for central government supervision of consumer protection in the financial area. The assessment is based on the findings below.

Significant regulatory expansion and increased resources for the Swedish Financial Supervisory Authority

In the wake of the global financial crisis of 2008-2009, regulations in the financial area were sharply increased. Regulations in global forums have been mainly driven at EU level. The regulatory expansion has resulted in an increased workload for both legislative and supervisory bodies. To meet increased demands and new tasks, the Swedish Financial Supervisory Authority's funding has almost doubled over the past six years. The Swedish Consumer Agency's supervisory activities and appropriations have not been affected to the same extent.

The Government has to a limited extent directed budgetary resources to influence the scope of consumer protection supervision in the financial area. Prioritisation decisions have been delegated to the agencies to a large extent.

Government control could contribute to further clarity

Government control has improved since 2006, when the Swedish NAO last audited the area. Governance of the Swedish Financial Supervisory Authority has been clarified and the Authority must now submit a special consumer protection report to the Government annually. The Government has also clarified requirements for consultation on questions in the areas where the Swedish Financial Supervisory Authority and the Swedish Consumer Agency have joint supervisory responsibility. However, we note that the Swedish Data Protection Authority is not subject to the corresponding requirements, despite the Debt Collection Act stipulating that supervision is divided between the Financial Supervisory Authority and the Data Protection Authority.

As of the 2016 Budget Bill, the Government submits an overall report to the Riksdag regarding the goal of the financial system, which includes a high level of consumer protection.¹ The audit shows that reporting has been developed, but that it could be done with greater precision if it was based on the three general conditions that the Swedish Financial Supervisory Authority considers must be fulfilled in order to achieve a high level of consumer protection. The conditions for assessment of consumer protection could also be strengthened if the Financial Supervisory Authority analysed the impact of the measures. A more detailed follow-up of the goals and clearer analysis of the impact of the measures would improve the conditions for monitoring the link between goals, measures taken and results. This has been requested by the Riksdag Committee on Finance.

Increased transparency could improve the comprehensive overview of the Swedish Financial Supervisory Authority's consumer protection supervision

The Swedish Financial Supervisory Authority's governance has also been improved by breaking down the government's goal into three conditions for a high level of consumer protection. The Authority has also developed a supervisory strategy stating that the supervision must be risk-

¹ A special written communication was also submitted in the spring of 2014, Govt. Communication 2013/14: 210.

based, comprehensive and communicative. It creates the conditions for effective supervision while marking that the regulations must be respected by everyone. There is a link between the goals for consumer protection, the risks identified by the Authority and the measures taken. In areas where the Swedish Financial Supervisory Authority does not feel that the regulations provide sufficient support, the Authority has presented the need for regulatory changes.

However, the Swedish NAO sees that there is room for improvement. The three conditions established by the Swedish Financial Supervisory Authority regarding a high level of consumer protection are not followed up. The Authority has set few internal performance targets and there are no targets for the number of completed surveys, thematic surveys and targeted surveys. Reporting of the comprehensive supervision is not consistent and varies over time. It is therefore unclear whether the underlying purpose of the comprehensive supervision is achieved: that all companies are subject to supervision over time and thus respect and comply with existing rules. Regarding the risk-based supervision, the Swedish NAO considers that there is a link between the consumer protection goals, the risks revealed in the risk analysis and the measures taken by the Swedish Financial Supervisory Authority. But it is not possible to obtain a compilation of the measures taken by the Financial Supervisory Authority or the outcome of the supervision.

There are occasional consumer evaluations, but these could be used to a greater extent to evaluate both regulatory measures and regulatory changes. There are also findings concerning continued consumer problems despite measures by both the Swedish Financial Supervisory Authority and the Government in the risk areas that the Swedish NAO has chosen to examine more closely.

In the absence of consistent and clear reporting of the number of supervisory efforts and an evaluation of their consequences, it is not possible to assess the effectiveness and productivity of the supervision. To enable such an assessment, in addition to a developed evaluation of the impact of the supervision, it is important that conditions are created to monitor the consumer protection supervision's use of resources.

The Swedish Consumer Agency's goal structure and processes are deemed to provide good conditions, but the impact goals should be followed up

The audit shows that the Consumer Agency has developed internal goals and governance based on the consumer policy goal. In the operational logic applied by the Agency since 2017, the goal has been broken down into impact goals that specify the effects in the wider community that the Agency wishes to achieve. At the same time, we note that no evaluation has been made at the impact goal level since the new operational logic was introduced in 2017.

For each impact goal, there are operational performance objectives on the basis of which the operations are governed and planned. The Consumer Agency's target structure with associated processes for planning, prioritisation and follow-up provides the Agency with good conditions for conducting effective consumer protection work in the financial area. The Agency's regular consumer report, together with the internal planning and prioritisation model, enable efforts to be directed to the areas where consumers experience the greatest problems.

The Consumer Agency's performance objectives are not followed up for individual subject areas. However, the audit of manually obtained data indicates satisfactory results in the financial area. Interviews with industry organisations and other players support this assessment.

Consumer protection in the premium pension system has improved

For a long time, there have been shortcomings in consumer protection in the premium pension system. According to the Swedish Pensions Agency, illegal or highly inappropriate activities have occurred. However, a number of measures have been taken in recent years. Telephone sales and marketing of funds and services linked to the premium pension area have been banned. Furthermore, since November 2018, significantly higher requirements are placed on the funds participating in the range of funds on offer. The cooperation agreements that were previously half an A4 page are now 53 pages in length. Another new feature is that the Pensions Agency continuously monitors companies' compliance with the requirements. We believe that the measures taken have significantly strengthened consumer protection in the premium pension system.

Confidentiality regulations impede effective collaboration

The Swedish NAO notes that the Public Access to Information and Secrecy Act (2009:400) to some extent prevents an effective exchange of information between the three audited agencies. This assessment is shared by the agencies themselves and also The Swedish Agency for Public Management which has investigated the question. The review of existing confidentiality regulations is currently being prepared by the Government Offices.

We note that there is no cooperation agreement between the Swedish Financial Supervisory Authority and the Swedish Pensions Agency. This could clarify the respective agency's responsibilities and the forms of cooperation. Similar cooperation agreements could also clarify the division of responsibility between Financial Supervisory Authority and the Data Protection Authority.

Recommendations

In light of the audit findings, the Swedish NAO recommends that the Government:

- in its instructions to the Swedish Financial Supervisory Authority and the Swedish Data Protection Authority, clarifies the consultation requirements in areas where the agencies have joint supervisory responsibility
- considers producing proposals for amended confidentiality regulations so that they do not impede information exchange between the agencies.

If the Government wishes to see prioritisation of the consumer protection area, it should also:

- make requirements that the Swedish Financial Supervisory Authority report the effect of the supervision

- task the Swedish Financial Supervisory Authority with producing indicators regarding the three overall conditions that the Authority considers must be fulfilled in order to achieve a high level of consumer protection
- consider including the above in its report to the Riksdag.

The Swedish NAO recommends that the Swedish Financial Supervisory Authority:

- further develops its governance and monitoring of the comprehensive supervision to ensure comparability over time and to achieve the underlying purpose of the comprehensive supervision
- further develops governance and monitoring of the risk-based supervision by
 - setting performance goals for the various supervisory activities
 - analysing the outcome and impact of the supervision.

The Swedish NAO recommends that the Swedish Consumer Agency evaluates the achievement of the Agency's impact goals.

The Swedish NAO recommends that the Swedish Financial Supervisory Authority and the Swedish Pensions Agency enter into a cooperation agreement with the purpose of clarifying the respective agency's responsibilities and the forms of cooperation.