Guidelines on Prohibited Banking Conduct

Conduct is any action or statement related to the promotion, sale or supply of banking services or products to consumers, including any reference to the third party products by the bank itself or its agent. An action or statement for this purpose includes an action or statement carried in an advertisement, product illustration, statement, promotional or marketing material and written or oral sales presentations.

Scope and objective of the guidelines: These guidelines are applicable on all Banks, MFBs and DFIs. The prohibited banking conduct complements and reinforces existing instructions and guidelines on responsible business conduct issued by State Bank of Pakistan (SBP) from time to time, for conventional as well as Islamic banks.

The guidelines are being issued to:

- Ensure that consumers are not provided with misleading or deceptive information in connection with a service or product.
- Prevent unreasonable business practices that intimidate or exploit consumers.
- Prevent business practices that restrict the freedom of consumers to choose between services or products available to them; and
- Prevent collusive business practices that may result in unfavorable outcomes to consumers.

Prohibitions with guiding examples

Prohibition 1: Engaging in misleading or deceptive conduct

A bank's conduct is considered misleading or deceptive where such conduct has the tendency or capacity to mislead or deceive consumers in relation to a banking service or product. In determining whether the bank is engaging in misleading or deceptive conduct, following factors will be considered:

1. Whether the bank has met explicit instructions issued by the SBP on product suitability, product transparency and disclosure, sales, post sales services, grievance handling and consumer empowerment.
2. The circumstances in which the alleged misconduct occurred. For example, the manner in which information was communicated to the consumers, and whether it was appropriate to the level of financial knowledge and understanding of the consumer.

For more clarity, the following are some examples of misleading or deceptive conduct by a bank in relation to banking services:

a) Hiding or not disclosing the actual price of a financing product (interest communication – APR only without disclosing other charges).
b) Falsely claiming third parties' product to be bank's product. Ambiguous disclosure of ownership of product will also be counted as misconduct.

c) Falsely stating that a banking product (including third party products) are only available for a limited time without disclosing the actual period for such campaign.
d) Falsely or ambiguously presenting a consumer's rightful entitlement, e.g. the right to redress, etc.
e) Misrepresenting the benefits, advantages, conditions or terms of banking service or product.
f) Giving prominence to the returns on a banking service or product without judiciously disclosing the significant terms, conditions, and risk warnings or not following the related regulations. Such action may mislead consumers to form unrealistic expectations on the returns to be earned.
g) Describing a banking service or product as 'free' or 'at no cost' without disclosing the conditions making that offering free.
h) Omitting material facts that are relevant for the banking consumer to make an informed decision such as using abbreviations, small print or cluttered disclosures to obscure such facts.
i) Accepting payments or consideration for services or products without intending to or being able to supply the services or products except the externalities beyond banks' control.
j) Misrepresenting conventional products as Shariah compliant products.
k) Obscuring early payments, switching or exit conditions and costs without adequate references to the sources such as Schedule of Charges .

Prohibition 2: Exerting undue pressure or influence

Bank will be considered exerting undue pressure or influence on a banking consumer if it is involved in exploiting a position of power or control over a banking consumer that unreasonably limits the consumer's ability to make an informed decision. It includes making unnecessary or excessive contact despite consumer's refusal or using any physical or forceful actions that restrict consumers' choices.

Timing, location, nature or persistence of the conduct will be considered in determining whether a bank is exerting undue pressure or influence on a consumer.

Following are some examples of exerting undue pressure or influence:

a) Making repeated solicitations to promote banking services or products to the consumers who have communicated their disinterest in same offerings.
b) Offering/Marketing and selling products and services on a single call.
c) Exercising right to set off without informing the customer or following the regulatory provisions on fair debt collection guidelines.

Prohibition 3: Demanding payments for unsolicited services

Banking services or products will be deemed unsolicited if such services or products are provided to consumers without their request or consent. Following aspects will be considered in determining whether a banking service or product is unsolicited:

a) Direct debits from customer's accounts without explicit and re confirmation of consumer consent.
b) Demanding payments for automatic enrolment offering without consumer consent unless expressly accepted or opted by the consumer within the time frame given by the bank.

Prohibition 4: Colluding to fix features or terms to the detriment of banking consumers

Collusion that results in detriment to banking consumers is a prohibited conduct. An arrangement that results in significant benefits to consumers that could not be achieved otherwise may not be considered as prohibited business conduct. The standardization of common terms and definitions used in contracts or agreements that helps consumers to compare similar products across different providers or which improves processing efficiency, is however, admissble.

Some of the examples are given as under:

a) Implicit or explicit agreement between banks to maneuver or manipulate a compliance requirement, e.g. omission or self-interpretation of an elicited regulatory requirement when adopting new delivery channels.
b) Implicit or explicit agreement between banks to maneuver legal or ethical requirement, e.g. compromising on customer confidentiality by sharing consumer information for marketing purpose without consent of the customer.
c) Adoption of policies or actions and procedures, which are detrimental to the interest of the customer, e.g. undue holding of customer cheques (received in inward clearing or near closing).

Prohibition 5: Complacency

Banks will be considered complacent if they are found not or least interested in taking necessary actions to ensure responsible banking conduct. Such actions may require investing or re-engineering systems and procedures, developing products, managing human resource, engaging with customer etc. Following are some complacency on the part of the banks:

a) Inadequate measures and tools deployed to fetch consumer and employee feedback.
b) Lack of reporting and action to rectify gaps identified by employee and consumer feedback.
c) Lack of policy identifying the level of authority to approve or disapprove actions or recommendations to be taken on consumer or employee feedback.
d) Casual attitude towards compliance requirements and addressing the root causes of the issues.
e) Absence or inadequacy of remedial actions to be taken after incidents of frauds/misconduct.
f) Existence of conflicting reporting lines despite apparent conflict of interest or high probability of biased or partial decision-making.
