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The Direction of Optimizing the Civil Law System for Financial Consumer Protection

Zhuochen Mu

Jinan Foreign Language School, Jinan, Shandong, 250010, China

ABSTRACT

This article focuses on the optimization direction of the civil law system for financial consumer protection. Firstly, the significance of financial consumer protection at the civil law level was expounded, and the deficiencies existing in the current civil law system in protecting financial consumers were analyzed, such as the imperfect regulation of standard terms, the incomplete provisions of information disclosure obligations, and the imperfect rights relief mechanism. Furthermore, specific suggestions for optimizing the civil law system are put forward from aspects such as improving the regulation of standard terms, strengthening the obligation of information disclosure, perfecting the rights relief mechanism, and clarifying the special rights of financial consumers. The aim is to better protect the legitimate rights and interests of financial consumers through the improvement of the civil law system and promote the healthy and stable development of the financial market.

KEYWORDS

Financial consumer protection; Civil law system; Standard terms; Information disclosure; Relief of rights

1 Introduction

From a global perspective, the complexity and uncertainty of financial markets are constantly increasing, and the types and structures of financial products and services are becoming more diverse and complex. This often leaves financial consumers in a disadvantaged position due to information asymmetry when faced with numerous financial options [1]. Financial institutions, relying on their professional and resource advantages, hold a dominant position in financial transactions. However, financial consumers, due to their lack of professional knowledge and experience, find it difficult to fully and accurately understand the risk and return characteristics of financial products and services, and thus are prone to making unreasonable decisions, resulting in damage to their own rights and interests.

Against this backdrop, strengthening the protection of financial consumers has become an important task for governments and regulatory authorities around the world. Civil law, as the fundamental law regulating personal and property relations among equal subjects, plays a fundamental and crucial role in the protection of financial consumers. Civil law, by establishing fundamental principles such as fairness, equality and good faith, sets equal legal status for both parties in financial transactions, regulates the behavior of financial institutions and prevents them from taking advantage of their dominant position to harm the interests of financial consumers. Meanwhile, the contract system, tort liability system and other provisions in civil law provide a comprehensive rights protection system for financial consumers. When the legitimate rights and interests of financial consumers are infringed upon, they can seek legal relief in accordance with the provisions of civil law [2].

2 The significance of financial consumer protection at the civil law level

2.1 Maintain a fair trading order

The financial market is one rife with information asymmetry, and there is a significant gap between financial institutions and financial consumers in terms of information acquisition and processing capabilities. Financial institutions possess professional financial talents, advanced information technology and a complete risk management system, enabling them to promptly and accurately grasp the dynamics of the financial market and information on financial products and services. Financial consumers, on the other hand, often lack professional knowledge and experience, and have limited understanding of the operating mechanisms of financial markets and the characteristics of financial products and services [3].

In such circumstances of information asymmetry, financial institutions may take advantage of their dominant position to set unfair conditions in transactions, thereby harming the interests of financial consumers. For instance, financial institutions may hide some unfavorable terms for consumers in standard terms, or exaggerate returns and conceal risks when selling financial products and services, thereby inducing financial consumers to make unreasonable decisions. Civil

*** Corresponding Author:** Zhuochen Mu, ZhuochenMu080219@163.com

law sets an equal legal status for both parties in financial transactions by establishing basic principles such as fairness, equality and good faith, and requires financial institutions to follow the principles of fairness, impartiality and transparency in transactions, and not to take advantage of information superiority to harm the interests of financial consumers [4].

Meanwhile, the contract system in civil law regulates the establishment, performance, modification and termination of financial contracts, requiring both parties to the contract to reach an agreement on the basis of equality and voluntariness, and the content of the contract should be legal, fair and reasonable. This helps prevent financial institutions from using standard terms and other means to force financial consumers to accept unfair trading conditions, and maintains a fair trading order in the financial market. For instance, according to the provisions of civil law, the provider of standard terms shall determine the rights and obligations between the parties in accordance with the principle of fairness, and adopt a reasonable approach to draw the other party's attention to terms that exempt or reduce its liability and other terms that are of significant interest to the other party. At the request of the other party, the provider shall explain such terms. If a standard term unreasonably exempts or reduces its liability, increases the liability of the other party, or restricts the main rights of the other party, such term shall be invalid [5].

2.2 Safeguard the legitimate rights and interests of financial consumers

The legitimate rights and interests of financial consumers include multiple rights such as the right to property safety, the right to be informed, the right to make independent choices, the right to fair transactions, and the right to claim compensation. These rights are the basic rights that financial consumers should enjoy in financial transactions and are an important foundation for safeguarding the interests of financial consumers. Civil law provides a comprehensive rights protection system for financial consumers through specific legal systems and rules [6].

In terms of property security rights, the Civil Law stipulates the obligation of financial institutions to ensure the security of the property of financial consumers. Financial institutions should take necessary security measures to ensure the safety of funds, accounts and transactions of financial consumers. For instance, financial institutions should establish and improve information security management systems, enhance the security maintenance of financial transaction systems, and prevent hacker attacks and data leaks. If the property of financial consumers is damaged due to the reasons of financial institutions, the financial institutions shall bear the corresponding liability for compensation [7].

In terms of the right to know, civil law requires financial institutions to fully, accurately and promptly disclose relevant information about financial products and services to financial consumers. Financial institutions should explain to financial consumers in plain and understandable language the key information such as the features, risks and returns of financial products and services, so that financial consumers can have a comprehensive and accurate understanding of the situation of financial products and services, and thus make reasonable decisions. If financial institutions fail to fulfill their information disclosure obligations, resulting in financial consumers making wrong decisions due to insufficient information, the financial institutions shall bear corresponding legal responsibilities [8].

In terms of autonomous choice, civil law guarantees that financial consumers have the right to independently choose financial institutions, financial products and services. Financial institutions shall not force financial consumers to purchase the financial products and services they provide, nor shall they make unreasonable sales promotions or inducements to financial consumers. Financial consumers can freely choose financial products and services that suit them based on their own needs and preferences [9].

2.3 Promote the healthy development of the financial market

A favorable environment for financial consumer protection helps enhance financial consumers' confidence in the financial market and promotes their participation and activity in it. When financial consumers believe that their legitimate rights and interests can be effectively protected, they are more willing to participate in financial transactions and invest funds in the financial market, thereby providing sufficient financial support for the financial market [10].

Meanwhile, the regulation and constraints imposed by the civil law system on financial institutions also help guide them to establish the concept of honest operation and improve the quality of financial services. In order to gain an edge in market competition, financial institutions will pay more attention to protecting the legitimate rights and interests of financial consumers and provide more high-quality, transparent and secure financial products and services. This will help enhance the overall efficiency and competitiveness of the financial market and promote its innovation and development [11].

3 The deficiencies of the current civil law system in protecting financial consumers

3.1 The regulation of standard terms is not perfect

In financial transactions, financial institutions typically use standard terms to enter into contracts with financial consumers. Although the use of standard terms has improved transaction efficiency, it also brings many problems. On the one hand, financial institutions often take advantage of their dominant position to set some unfair and unreasonable terms in standard terms, such as exempting themselves from responsibility, increasing the responsibility of consumers, and restricting consumers' rights, etc. On the other hand, the current civil law mainly focuses on the formal review of standard terms during the contract formation stage, with insufficient review of the substantive fairness of the content of standard terms, resulting in some unfair standard terms being difficult to be effectively regulated.

3.2 The regulations on information disclosure obligations are not comprehensive

Information disclosure is the foundation for financial consumers to make reasonable decisions. Financial institutions have the obligation to fully, accurately and timely disclose relevant information about financial products and services to financial consumers. However, the current civil law's provisions on the information disclosure obligations of financial institutions are rather general and general, lacking specific standards and norms. For instance, there are no clear regulations on the content, methods and extent of information disclosure, which leads to a considerable degree of arbitrariness in information disclosure by financial institutions. As a result, financial consumers find it difficult to obtain comprehensive and true information, thereby increasing the risks of financial transactions.

3.3 The mechanism for rights relief is not sound

When the legitimate rights and interests of financial consumers are infringed upon, a timely and effective rights relief mechanism is of vital importance. However, at present, the civil law system has some deficiencies in the relief of financial consumers' rights. On the one hand, litigation procedures are complex, time-consuming and costly. Financial consumers often give up protecting their rights due to the fear of the cumbersome litigation procedures and high litigation costs. On the other hand, the application of non-litigation dispute resolution mechanisms such as mediation and arbitration in the field of financial consumer protection is still not extensive and complete enough, and their authority and enforcement need to be further enhanced.

3.4 Insufficient protection of the special rights and interests of financial consumers

Financial consumers have special rights and interests that are different from those of ordinary consumers, such as financial privacy rights and financial security rights. The current civil law lacks clear regulations and targeted institutional designs for the protection of these special rights and interests of financial consumers. For instance, in terms of the protection of financial privacy rights, although the Civil law stipulates that citizens' personal information is protected by law, the specific obligations and responsibilities of financial institutions in the process of collecting, using, storing and disclosing personal information of financial consumers are not clearly defined, which leads to frequent incidents of personal information leakage of financial consumers.

4 The direction of optimizing the civil law system for financial consumer protection

4.1 Improve the regulation of standard terms

The current review of standard terms mostly remains at the formal level, and it is necessary to strengthen the review of substantive fairness of the content. The legislative body should formulate specific judgment criteria, clearly stating that unfair and unreasonable provisions that exempt itself from liability for intentional or gross negligence or exclude the main rights of consumers are invalid. At the same time, courts or regulatory authorities should be granted substantive review power to promptly correct and sanction unfair standard terms.

Financial institutions are required to file the standard terms with the regulatory authorities and display them at their business premises or on their official websites to accept public supervision. Regulatory authorities review the filing terms, order institutions with problems to rectify within a time limit, enhance the transparency of standard terms, and strengthen consumers' right to know and choose.

Before entering into a contract, financial institutions should prominently alert consumers to the content of significant interests and provide explanations as required. If the obligation of explanation is not fulfilled, resulting in the consumer's failure to understand the terms, the consumer has the right to claim that such terms shall not be part of the contract. At the same time, the standards for financial institutions to fulfill their obligation to explain and their burden of proof should be clearly defined, and supervision and sanctions should be strengthened.

4.2 Strengthen the obligation of information disclosure

The legislative body should formulate detailed standards and norms for information disclosure by financial institutions, clearly defining the content, methods, extent and time requirements for information disclosure. The content covers key information such as the nature, risks, returns and fees of financial products and services. The approach adopts plain and understandable language and form. The degree is differentiated based on the complexity and risk level of the products and services. High-risk products and services require more detailed disclosure. The time should be before the consumer makes a decision.

Regulatory authorities have established an information disclosure quality assessment mechanism to regularly assess and inspect the information disclosure situation of financial institutions. The evaluation indicators include completeness, accuracy, timeliness, understandability, etc. Institutions with high-quality information disclosure should be commended and rewarded, while those with low quality should be criticized, punished and ordered to rectify, so as to enhance the effectiveness and credibility of information disclosure.

Regulatory authorities have strengthened daily supervision, established and improved regulatory systems and working mechanisms, and intensified law enforcement efforts. For institutions that fail to disclose information as required or provide false information, penalties such as fines, warnings, suspension of business, and revocation of licenses shall be imposed in accordance with the law to increase the cost of illegal and irregular activities and form a deterrent.

4.3 Improve the mechanism for rights relief

Simplify the litigation procedures for financial consumers and reduce litigation costs. Establish specialized financial courts or summary arbitration mechanisms for financial disputes to enhance the efficiency of dispute resolution; Promote the small claims procedure, implement one-instance final adjudication for small disputes, and reduce litigation time and costs. Establish a litigation assistance system to provide legal aid and judicial assistance to economically disadvantaged consumers and ensure their equal exercise of litigation rights.

Vigorously develop non-litigation dispute resolution mechanisms such as mediation and arbitration. Establish and improve the mediation organization system, cultivate a professional team of mediators, and enhance the professionalism and fairness of mediation. Improve the rules of financial arbitration to enhance the efficiency and credibility of arbitration. Strengthen the connection between non-litigation and litigation mechanisms, establish working mechanisms such as the connection between litigation and mediation, and the connection between litigation and arbitration, and achieve complementary advantages.

In view of the collective characteristics of financial consumers' rights and interests being infringed upon, a class action litigation system should be established. Clarify the scope of application, the selection of representatives, the assumption of litigation costs and other rules to reduce the cost and difficulty of collective rights protection, improve the efficiency and effectiveness of rights protection, enhance consumers' ability to safeguard their own rights and interests, and restrain the illegal acts of financial institutions.

4.4 Clarify the special rights of financial consumers

The civil law clearly stipulates the financial privacy rights of financial consumers, defining the scope and content, including personal information, account information, transaction information, etc. It stipulates the obligations and responsibilities of financial institutions in the process of collecting, using, storing and disclosing consumers' personal information, such as obtaining clear authorization and taking security measures to prevent information leakage. Civil compensation, administrative penalties and other legal responsibilities are stipulated for acts that infringe upon financial privacy rights.

Clarify the obligations and responsibilities of financial institutions in ensuring financial security. Financial institutions should establish and improve financial security management systems, and take technical and management measures to ensure the security of consumers' funds, accounts and transactions, such as strengthening system security maintenance and strictly verifying identities. Where the financial security of consumers is damaged due to the reasons of financial institutions, they shall bear the liability for compensation.

For specific products and services such as remote sales of financial products and high-risk financial derivatives, consumers are granted the right to regret within a certain period of time. During the period of regret, consumers can unconditionally terminate the contract. Financial institutions should refund the fees already paid, but consumers should bear the reasonable usage fees. This provides consumers with the opportunity to think calmly and change their minds, reducing the damage to their rights and interests.

5 Conclusion

Financial consumer protection is an important guarantee for the healthy development of the financial market. The civil law system plays a fundamental and crucial role in the protection of financial consumers. The current civil law system has problems in protecting financial consumers, such as incomplete regulation of standard terms, incomplete provisions on information disclosure obligations, imperfect rights relief mechanisms, and insufficient protection of special rights and interests of financial consumers. To better protect the legitimate rights and interests of financial consumers, the civil law system should be optimized from aspects such as improving the regulation of standard terms, strengthening the obligation of information disclosure, perfecting the rights relief mechanism, and clarifying the special rights of financial consumers. Through the improvement of the civil law system, more comprehensive and effective legal protection can be provided for financial consumers, promoting the fair, orderly and sustainable development of the financial market. At the same time, the optimization of the civil law system requires the coordinated cooperation of legislation, judiciary, supervision and other aspects to form a joint force for the protection of financial consumers and jointly create a safe, stable and healthy financial consumption environment.

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