

**COMMISSION de SURVEILLANCE
du SECTEUR FINANCIER**

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 27 February 2007

To all the persons concerned

Circular CSSF 07/281

Re: Entry into force of the law of 18 December 2006 concerning the distance marketing of financial services

Ladies and Gentlemen,

We are pleased to draw your attention to the entry into force of the law of 18 December 2006 (the “law”) implementing Directive 2002/65/EC concerning the distance marketing of consumer financial services.

The purpose of the law is to implement Directive 2002/65/EC which defines a harmonised legal framework for the conclusion of distance contracts relating to financial services to establish an appropriate level of consumers in all the Member States. With the exception of article 14, which covers the insurance contract, the law applies to professionals of the financial sector that conclude distance contracts for financial services with consumers.

1. Scope of application

The law applies to any distance contract for financial services as defined under article 1,6), irrespective of the means of distance communication used: mail, telecopy, telephone, electronic or any other means of communication without the simultaneous physical presence of the professional and the consumer. If the contract is concluded electronically, the provisions of the law of 14 August 2000 as amended on electronic commerce shall apply cumulatively.

2. Essential elements

- The professional of the financial sector shall transmit in good time, before the consumer is bound by any distance contract or offer, the detailed information as laid down in article 3 of the law. The professional shall notably provide information on itself, the financial service offered, the conditions of the distance contract and other information such as the existence or absence of extra-judicial complaint procedures

and the existence of funds or similar compensation agreements. The use of more intrusive means of communication, as for example voice telephony, electronic mail or teletype, requires the consumer's prior consent. In the case of voice telephony communications ("cold calling") initiated by the professional of the financial sector, the latter shall explicitly make clear its identity and the commercial purpose of the call at the beginning of the conversation with the consumer. The consumer may give his consent to receive only part of the information in such case.

- The professional of the financial sector shall communicate to the consumer all the contractual terms and conditions and the information, pursuant to the obligations imposed by the law, on paper or on any other durable medium (e.g. on a floppy disk, CD-ROM or *via* electronic mail). The medium shall in principle be made available and accessible to the consumer in good time before the consumer is bound by any distance contract or offer.
- The consumer shall have a period of 14 calendar days to withdraw from the contract without penalty and without giving any reason. This period shall be extended to 30 calendar days for personal pension operations.

The period for withdrawal shall begin:

- either from the day of the conclusion of the distance contract;
- or from the day on which the consumer receives the contractual terms and conditions and the information, if that is later than the date of the conclusion of the distance contract.

The right of withdrawal is not applicable to a certain number of financial services as provided for by article 7(2) of the law. It shall notably not apply to services whose price depends on fluctuations in the financial market (foreign exchange, money market instruments, transferable securities, units/shares in collective investment undertakings, futures contracts, swaps, options), to contracts whose performance has been fully completed by both parties at the consumer's express request, to home loans and to mortgages.

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Simone DELCOURT
Director

Arthur PHILIPPE
Director

Jean-Nicolas SCHAUS
Director General