

Treating customers fairly - what good looks like

Related information

Speech by Sarah Wilson, Director TCF and Insurance Sector Leader, FSA
Treating Customers Fairly: Making it Happen Roadshow

18 November 2008

What will the FSA be looking for in firms to be satisfied that they do consistently treat their customers fairly?

What has been learned from the initiative? TCF is now a core part of the supervisory process known as ARROW.

Far from scaling back on the requirement for fair treatment of customers and a reduced interest in holding firms to account for how they deal with their customers, this continues to be very high priority for the FSA. The TCF initiative covers not just our Principle 6 ('a firm must pay due regard to the interests of its customers and treat them fairly') but is also related to Principle 2 (on conducting business with due skill, care and diligence); Principle 3 (taking reasonable care to organise and control affairs responsibly and effectively with adequate risk management systems; Principle 7 (on client information needs) and Principle 9 (on suitability of its advice and discretionary decisions for customers). Moreover, difficult market conditions pose particular risks to fair outcomes for consumers. The FSA therefore must and will continue to take decisive action where its finds (actual or potential) consumer detriment.

What does a firm that is treating its customers fairly look like?

What does good look like?; what characterises a firm that consistently treats its customers fairly?

- demonstrate that senior management have instilled a culture whereby they understand what the fair treatment of customers means; where they expect their staff to achieve this at all times; and where (a relatively small number of) errors are promptly found, put right and learned from;
- be appropriately and accurately measuring performance against all customer fairness issues materially relevant to their business, and be acting on the results;
- be demonstrating through those measures that they are delivering fair outcomes; and
- have no serious failings – whether seen through MI or known to us directly – including in areas of particular regulatory interest previously publicised by the FSA.

FSA's assessments of TCF

Going forward, these are the points that we will consider in carrying out TCF assessments – whether through ARROW (where firms can expect to be given granular feedback and a specific score for TCF) or as a part of the enhanced strategy for smaller firms.

Central to those assessments will be the Outcomes that a firm is achieving – the third and fourth aspects noted above. So let me start there.

Going forward we will form our view of a firm's delivery of the TCF Outcomes with reference to that firm's **management information** (where we believe it is robust); direct **testing of the consumer experience** (for example through **call listening, mystery shopping, file reviews, and reviews of consumer communications**); and examination of any other relevant, up-to-date evidence (such as the results of recent thematic work). After many years of work, we would expect you to be delivering a very strong performance. This does not mean 100% delivery on all occasions, but – on rare occasions when things go wrong – we

would expect senior management to have put in place clear accountabilities and timelines for taking action.

You can also expect us to be particularly interested in areas where we have previously noted regulatory concerns. To be explicit, any firm that continues to have a material outstanding issue in any area where the FSA has previously highlighted poor practice is particularly likely to be deemed to be at significant risk of not treating its customers fairly overall, and we will take appropriate regulatory action as a result. Current examples cover many sectors and areas of operations.

They include:

- failure to comply with our requirements in the sale of PPI; (A significant number of firms have put in place remedial action, and we have fined several in recent months.)
- failure to explain clearly key information in product disclosure documents (such as Key Features Documents) and post-sale communications on with-profits; (We have already challenged senior management to take action here in response to poor findings in thematic work, and stressed that problems should be put right by the end of December.)
- failure to evidence good advice quality in an area/product where the firm had performed poorly in the past; (Here we have recently published enforcement action, and further investigations are pending.)
- failure to take into account the right factors in making lending decisions. (Here also we have taken enforcement action recently – in respect both of poor lending processes and of the suitability and affordability of particular loan products.)
- Unfair arrears management practices when firms are trying to secure payments on outstanding debts; (Amongst other action, we have referred a firm to enforcement because of concerns about the possibility of unfair practices in arrears management, following an internal audit report which highlighted poor systems and controls.)
- with-profits funds run without due independent challenge; (We have seen significant changes in some cases since publishing thematic work last year.)
- high pressure selling – eg shares, structured products etc; (A firm has recently been referred to enforcement where there are concerns about the appropriateness of information given to customers about the risks associated with the shares they were buying.)
- failure to resolve issues concerning firms' promotional material and using unfair terms in customer contracts which result in material levels of consumer detriment. (We have taken enforcement action on failure to communicate in a way that is clear, fair and not misleading, for example in relation to PPI sales or where documentation has not been sufficient to make customers aware of the risks.)

Any firm that has a material outstanding issue with any of the issues outlined above – or any other material ongoing regulatory issues – is particularly likely to be judged as being at significant risk of not treating their customers fairly overall. We will continue to take action as appropriate.

Measuring the Outcomes will not be the whole of a TCF assessment – this initiative has been about seeking to understand with firms how best to move the retail market to a position where fair outcomes are delivered consistently and sustainably. So, **we will continue to take a strong interest in a firm's culture** – to understand risks that might prevent a good performance from being sustained (including perhaps the **absence of robust management information**), or explain poor performance where it exists.

We explained what we meant by 'culture' in the context of TCF last year, when we published a 'culture tool' – designed to help senior management identify areas of risk to TCF outcomes in the culture of the firm. **Leadership is central** - where there is strong leadership with a **clear vision** of what treating customers fairly means for the firm, it is more likely to have a culture which is geared towards delivering fair consumer outcomes. The firm's **strategy** is relevant – and insofar as current market conditions cause firms to alter their strategic direction – senior management should consider the implications for **customers as an integral part of their planning. Decision-making** at all levels within the firm will also

impact. And **controls**, including management information, are important so that senior management in the firm can satisfy themselves that the customer is being treated fairly. And then there are the **people issues. Recruitment, training and competence** - firms can influence the delivery of fairer outcomes by recruiting staff with **appropriate values and skills**; training staff effectively; and assessing and monitoring their competence. And very topically at present of course, **reward strategy** is key.

The significance of culture was very evident to us when we came to assess firms against the March deadline, and we would expect this to be equally true going forward – as we conduct TCF assessments as a part of an ARROW review or as a part of the enhanced strategy for smaller firms. In short, those firms that showed good practice against the March deadline had treated TCF as something which needed to be built into the firm's culture.

- Firms' own commercial strategies were consistent with fair treatment of customers.
- Firms demonstrated active senior management involvement - not only in terms of engagement, but also in terms of driving change throughout the business
- Good firms also ensured that the fair treatment of customers was written into personal objectives and reward at all levels within the company; and
- Good firms listened to, and acted on, feedback from customers.

Overall then, 'good' is as simple as a firm that delivers the TCF outcomes and which achieves this in a conscious and controlled manner – so that it is likely to be sustained.

TCF – what it has taught us about principles based regulation

Specifying six TCF Outcomes, as we did in 2006, greatly enhanced understanding of this initiative and helped to direct activity. At the same time, it is clear that we need to continue to stress their relevance – for example in the area of management information, where it is important to measure the outcome and not the process.

Second, senior management involvement has been crucial. We see evidence of high levels of engagement on the part of senior management. In those firms where senior management have made it their responsibility to drive delivery, there has been most success to date.

Third, both firms and supervisors face the challenge of handling judgements based on high level rules or the Principles themselves, with associated training needs.

Fourth, in the context of making judgements, we learned a lot about the types of tool necessary to progress a principles-based approach – this includes the product life-cycle (including Guidance of provider distributor responsibilities); the TCF Culture framework already mentioned this morning; case studies; and good and poor practice examples. In developing this material, we have particularly benefited from the input of a Consultative Group with membership representing both the industry and the consumer interest.