FSA update on the Treating Customers Fairly initiative and the December deadline

This publication updates firms on our approach to delivering the Treating Customers Fairly (TCF) initiative and our activities associated with the December TCF deadline.

An update on our approach – summary

By the end of December 2008 we expect firms to be able to demonstrate to themselves and to us that they are consistently treating their customers fairly.[1]

TCF remains central to our retail strategy – it has gained enormous buy-in from firms and their senior management, and is a hugely important part of our retail agenda for consumer protection. To realise the benefits of the TCF initiative more quickly, we have decided to move TCF assessments into our core supervisory work earlier than originally planned – from January rather than September 2009.

TCF will be embedded within our core supervisory work so firms' delivery of the TCF Outcomes[2] (and consequently their compliance with the December deadline) will be assessed using ARROW, our risk-responsive operating framework. For relationship-managed firms it will become an integral part of their regular assessments. We will continue to assess the progress of small firms via the regional assessment programme under the enhanced strategy[3]. Where we find failings, we will continue to use our full range of regulatory powers to take tough action.

As a result of this decision, we will not be pursuing one aspect of our previously published strategy[4] – the one-off structured sampling of firms and the consequent report in September 2009. This would have involved conducting up to 100 assessments in a concentrated period, which would have been resource intensive for both the FSA and for firms. We will however, be reporting on TCF in the usual way in our Annual Report 2009, drawing upon findings from our ARROW process.

1 http://www.fsa.gov.uk/pubs/other/tcf_implementation.pdf, p8.

2 http://www.fsa.gov.uk/Pages/Doing/Regulated/tcf/index.shtml

3 http://www.fsa.gov.uk/Pages/Library/Communication/PR/2008/007.shtml

4 As published in our June report, the last phase of the TCF initiative had three aspects:
- ongoing engagement with firms to help them to meet the December deadline (through ARROW visits and through other communications with firms);
- taking tough action against firms with significant TCF failings; and
- assessing a sample of firms between January and June 2009 for a report in September 2009.

What this means for firms

What is required?

We expect firms to meet the December deadline. In June 2008[5] we made it clear that to do this, firms should:

- be able to 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 management information (MI) or known to us directly – including in areas of regulatory interest previously publicised by the FSA.

How firms will be assessed

From 2009, regular ARROW assessments of relationship-managed firms will include a TCF assessment in all cases where this is relevant. These assessments will involve a review of TCF Outcomes with reference to a firm's own MI (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).

The assessments will also use the TCF Culture Framework[6] to identify where there are risks that might prevent good performance from being sustained (including perhaps the absence of robust MI), or to identify or explain poor performance where it exists.

In short, our ARROW assessments will broadly follow this sequence:

- ***Request for information:*** As part of the initial planning request, supervisors will ask firms for a range of material to inform the overall ARROW assessment. This material will vary from firm to firm, but for TCF it is likely to include a short pre-assessment questionnaire which allows a firm to summarise and provide examples of its delivery of fair outcomes and relevant MI demonstrating the fair treatment of customers. Firms that have conducted self-audit work beyond the collation and use of MI will be asked to submit this too.
- ***Determining scope and nature of the assessment:*** We recognise that firms will take different approaches to TCF and may collect different MI to manage their performance. So while the TCF elements will be fully integrated with the core ARROW process, assessments will not be formulaic and we will tailor our

5 http://www.fsa.gov.uk/pubs/other/tcf_progress.pdf, p4.

6 http://www.fsa.gov.uk/pubs/other/tcf_culture.pdf, p21.

supervisory approach to the particular circumstances of the firm. Supervisors will use the information gathered through the initial planning request, as well as their current knowledge of the firm, to determine the scope of the TCF element of the ARROW assessment, including how outcomes will be assessed.

- ***Assessment validation:*** The scope of the TCF element, as well as conclusions on the firm's TCF performance, will be subject to challenge by our ARROW validation panels in the usual way to ensure robust, consistent decision-making.
- ***Feedback to the firm:*** TCF will be reflected in the risk scores provided to firms at the end of their ARROW assessments. From 2009, the ARROW letter sent to firms will contain specific feedback on our view of the risk that the firm poses to TCF outcomes (scored low to high).

Smaller firms

Our approach to assessing smaller firms will continue. Under the small firms enhanced strategy, our three-year regional assessment programme will carry on as planned. The assessments will continue to be based around the key drivers in the TCF Culture Framework – leadership, business decisions, controls, recruitment, training and competence, and reward.[7] Small firms can find more tailored guidance on TCF on our website.[8]

Tools and materials available for firms

It remains the responsibility of senior management, using appropriate risk management structures and oversight, to ensure that firms are delivering against their regulatory obligations and we expect senior managers to challenge and assure themselves that they are treating customers fairly.

We have taken forward the TCF initiative in an outcome-focused and more principles-based way, and we have designed and published a range of tools and materials[9] to help firms to deliver TCF and to self-audit against TCF Outcomes. These tools include:

- the six TCF Outcomes;
- the product lifecycle (including guidance on provider distributor responsibilities);
- the TCF Culture Framework to help firms, and us, to understand internal obstacles that prevent the good intentions of senior management from translating into improvements for consumers;
- case studies; and
- good and poor practice examples.

7 http://www.fsa.gov.uk/pubs/other/tcf_culture.pdf, p28.

8 http://www.fsa.gov.uk/smallfirms/index.shtml

9 http://www.fsa.gov.uk/Pages/Doing/Regulated/tcf/library/index.shtml