



Key Contacts

Rosie Bhattacharjee
rbhattacharjee@bovill.com

Alex Ellerton
aellerton@bovill.com

“Firms need to determine for themselves how TCF applies to their business...”

London office

**82 Blackfriars Road
London
SE1 8HA**

**Phone: 020 7620 8440
Web: www.bovill.com**

TREATING CUSTOMERS FAIRLY (“TCF”)

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Overview

TCF is not a new concept. As FSA point out in their November 2007 progress report, it is firmly rooted in the FSA’s Principles for Businesses. The TCF initiative is relevant to all firms who are involved in the retail supply chain, whether they have a direct interface with the customer or not. All firms with retail customers need to focus on TCF as a priority since two key deadlines are set for 2008: by March 2008 firms must have management information in place which enables them to evidence TCF compliance, and by December 2008 firms must be able to show that they are consistently treating customers fairly.

What is TCF?

The FSA expect firms to focus on delivering six consumer “outcomes”:

- 1) Consumers can be confident that they are dealing with firms where the fair treatment of customers is central to the corporate culture.
- 2) Products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and are targeted accordingly.
- 3) Consumers are provided with clear information and are kept appropriately informed before, during, and after the point of sale.
- 4) Where consumers receive advice, the advice is suitable and takes account of their circumstances.
- 5) Consumers are provided with products that perform as firms have led them to expect, and the associated service is both of an acceptable standard and also as they have been led to expect.
- 6) Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint.

How can firms achieve this?

The FSA have warned in their November 2007 update that they are still seeing too little progress towards firms achieving the overall outcome of consistently treating customers fairly. Firms need to determine for themselves how TCF applies to their business and should be able to demonstrate the rationale for their approach. FSA have identified some key areas where firms need to focus their attention.

Culture and leadership

TCF needs to be embedded from the top down with strong leadership to support TCF initiatives. Culture is key to the first consumer outcome. Senior management are often able to articulate what is meant by TCF but there may be less awareness “at the coalface”.

Strategy

FSA expect firms to allocate sufficient time to factoring TCF into their strategy, for example when developing new products and services. FSA have seen examples of firms switching off their TCF agenda to focus on a business priority, failing to appreciate that it is essential to factor TCF into business planning.

Controls

Management information is a key part of firms being able to evidence that TCF controls are in place and are effective. MI should bring analysis into the thought process. The FSA have set a specific deadline for firms to have effective TCF management information in place by March 2008.

Performance management and reward

Firms can evidence their commitment to TCF by embedding it into personal objectives. However, firms cannot simply pay lip service to this as FSA have picked up on examples of TCF objectives not being sufficiently integrated with the firm's reward strategy.

Management Information ("MI")

In July 2007, FSA released a paper focusing on the types of MI they will expect firms to have in order to evidence consistently treating customers fairly. MI needs to be accurate, timely, relevant and consistent and firms need to focus on the proper use of MI. Many firms gather MI which they do not utilise and FSA have also emphasised that firms need not necessarily invent new MI but can often inform their TCF work with existing data. The key points are that MI must be analysed and challenged. And it must be acted upon.

Supervision Strategy

FSA have recently indicated that they are seeking to help small retail firms with their TCF work by increasing their interaction with such firms, by way of structured visits and/or telephone assessments. The main purpose of this strategy is to help small firms make faster progress in meeting their TCF obligations. Small firms will clearly need to be prepared for such an increase in interest from the regulator.

Conclusions

TCF is here to stay and, given the 2008 deadlines, firms need to focus on this as a priority. The latest report emphasises this and recent FSA speeches give a clear indication that the FSA expect firms to increase their efforts and momentum towards meeting the required standards.

FSA see TCF as crucial to their retail agenda and the benefit they point to is the enhanced reputational benefit of attracting consumers back into the market to buy products with confidence. FSA will not hesitate to use the range of potential supervisory tools they can employ with firms who are not complying, ranging from skilled persons reports to full enforcement.

The 2008 deadlines sharpen the focus on this work and, post MiFID, TCF may now affect a wider range of firms. Please get in touch if we can help you with your TCF implementation agenda.

"FSA will spend a significant proportion of their supervisory effort on supporting and testing firms in meeting the deadlines..."

Manchester office

**Barnett House
53 Fountain Street
Manchester M2 2AN**

Phone: 0161 247 8562

Web: www.bovill.com