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“...firms need to be able to drill down within the TCF MI and investigate further...”

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EMBEDDING TREATING CUSTOMERS FAIRLY

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Overview

At the end of June the FSA reported that 87% of relationship-managed firms that they assessed had failed to meet the March 2008 deadline for firms to have appropriate TCF Management Information (MI) measures in place. What does this tell us about the likelihood of all firms meeting the final TCF deadline? Will firms be able to demonstrate that they are consistently treating their customers fairly by December 2008?

The FSA suggest that, despite these results, they believe 80% of relationship-managed firms are still capable of meeting the December deadline. This view is based on how closely some firms missed meeting the March deadline, and confidence from the FSA that much more effort will be made by firms prior to December.

Why is implementing TCF MI proving so difficult?

The March deadline was viewed as an attempt to encourage tangible action from the industry, and to evidence the results of what has been a five year major project to raise standards. The FSA first set the deadline in May 2007. Some firms undoubtedly left it too late to begin their TCF MI initiatives, and this accounts for some of the failures observed.

The FSA have in the past encouraged firms to make use of existing data when formulating their TCF MI. However, some firms that concentrated too heavily on existing business as usual MI were deemed to have missed the TCF MI deadline. For example, a firm may have decided to collate and monitor data on its sales process to meet the March deadline, perhaps in an attempt to address TCF outcome 4. But it is not just monitoring of the process that is required from a TCF MI perspective (e.g. sales volumes by product type) but the ability to spot outliers (e.g. a peak in volume caused by advisers selling to their entire client base without regard to customer needs). This is clearly much more difficult to detect, and would require an ability to drill down within the TCF MI and investigate further.

The requirement to undertake root cause analysis on complaints data is now a well understood concept, and was reflected in the DISP handbook rules from November 2007. Arguably, TCF MI should involve the root cause analysis of data from all other ‘customer touch points’ too. The key to TCF MI success must be the ability to determine root causes and detect outliers while keeping the MI as simple as possible, which can prove to be a very difficult balance to achieve.

One of the most often quoted mantras for regulated firms is senior management responsibility. Despite this, some firms were considered to have failed to meet the March deadline due to a lack of effective sponsorship at the most senior levels, perhaps proving that this remains difficult to achieve in practice.

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“...TCF will form an integral element of all business as usual supervisory activity...”

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The concept of fairness is very subjective and each and every retail firm has been actively encouraged since day one to interpret fairness and TCF in their own way, across the business as a whole. Since publication of the July 2006 TCF paper firms have been encouraged to measure TCF success via the *six TCF outcomes*. These outcomes measure overall TCF success and so must form a key part of the design of any TCF MI, and it is the six outcomes that the FSA monitor against when visiting firms to assess their TCF capabilities. Regardless of the individuality of a firm's TCF MI, it must still be mapped back to the TCF outcomes and some firms have found this difficult.

What is expected for December 2008?

As time has progressed, the FSA have clarified their expectations somewhat. They have stressed that by December, firms must be consistently treating customers fairly. This includes having MI in place that has been collected and acted on for at least nine months to demonstrate delivery of TCF.

The FSA expect firms to have “no serious failings in relation to treating customers fairly” by December. This is perhaps a little unrealistic when one considers the issue of legacy mis-selling problems. TCF failings are often at the heart of enforcement action in such cases, even where the conduct in question which is the subject of the final notice pre-dates N2. If TCF failings are being recognised for these legacy problems, it is difficult to see that these will cease entirely from December.

The many examples of good and bad practice published by the FSA are very helpful. In particular, the examples for small firms and case studies encourage thoughtful solutions on the subject. However there will still be a need for a firm-specific, detailed solution to ensure that the December deadline is met.

The key question to ask for December is “what does good look like?” As well as collating, monitoring and acting on MI, to be able to prove that the December deadline has been met, it would be helpful for firms to set very specific targets so that success can be measured and more importantly recognised when it has been achieved. TCF is supposed to be an ongoing initiative which should carry on long past December 2008, but to provide evidence to the regulator it will be important to define some sort of interim critical success factor to be observed by December.

So for example, a firm may collect TCF MI in the form of mystery shopping review data. A suitable target could be to ensure that this TCF MI confirms that customer documentation is provided, including all of the correct information at the correct time in at least 90% of cases from December, and into the future. Without setting some form of target, however, it would be difficult to judge that success was achieved by December specifically.

What the FSA are doing next

Finally, a word on what the FSA will be doing after the final deadline at the end of this year. The FSA will undertake specific assessments between January and June 2009 to determine whether the December 2008 deadline has been met. Final results will then be published in September 2009. The most surprising (perhaps) message from the regulator is that after September 2009, there will no longer be a bespoke TCF initiative. Instead, TCF will form an integral element of all business as usual supervisory activity. We believe it will be very much a case of out of sight, but certainly not out of mind.