

By Invitation:

Can Banks Treat Customers Fairly?

By December 2008, UK banks and financial institutions will be required by the Financial Services Authority (FSA), the industry regulator, to demonstrate that they are consistently treating retail customers fairly.

There is no rulebook to follow, no boxes to tick, simply six defined consumer outcomes which, if achieved, should show that financial institutions are Treating Customers Fairly (TCF) and these outcomes are now central to the FSA's retail regulatory agenda.

- Outcome 1 - Consumers can be confident that they are dealing with firms where the fair treatment of customers is central to the corporate culture
- Outcome 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
- Outcome 3 - Consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale
- Outcome 4 - Customers receive advice, that is suitable and takes account of their circumstances
- Outcome 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 as they have been led to expect
- Outcome 6 - Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint

This represents a fundamental switch by the FSA towards principles-based regulation and by December 31 2008, UK banks and financial institutions must be able to demonstrate that these outcomes are being achieved. Moving from rules-based to principles-based regulation is arguably a brave decision by the FSA. It will place the responsibility of demonstrating fairness on the institutions themselves. Yet the real issue is how this demonstration of fairness will be measured, not only by the institutions, but also by the FSA itself.

Measuring fairness presents a challenge. At a recent House of Lords debate for financial institutions, sponsored by GoodCorporation, on the subject of Treating Customers Fairly, it was argued that fairness is difficult to define and even harder to measure, so how will banks demonstrate that their customers are being fairly treated? At the debate, two clear approaches emerged.

For some, Treating Customers Fairly will be achieved by implementing internally developed processes and policies. These policies will address issues as varied as 'How long did it take to answer the phone?' to 'is this products explained in plain English.' This is the more traditional approach to measurement and is likely to be enforced by the compliance teams within financial organisations.

Other institutions argued that Treating Customers Fairly should not be process-driven, but rather customer-driven. TCF should be assessed, measured and ultimately achieved as a result of listening to customers and talking to them to see if they think they are being treated fairly. It should not be confined to the workings of a compliance team, but rather carried out across the organisation.

So despite the clear definition of desired outcomes from the FSA, the approach to principles-based regulation is likely to differ from institution to institution. For financial organisations to get this right, they will need to show that policies are in place and that as a result of having them in place, customers feel fairly treated.

There is no magic formula for measuring fairness. From our experience auditing businesses for best practice, GoodCorporation would urge financial institutions to apply a combination of approaches in order to provide a meaningful assessment of customer fairness. Processes and systems alone cannot do this and simply asking customers whether a bank's product is 'fair' will provide little useful information.

Processes will need to be put in place that compliance people can measure and enforce internally. Customer feedback will also be crucial. But it will need to focus on views of specific sales practices, rather than simply asking if a product was sold 'fairly'. Moreover, individual consumer feedback is only part of what banks and financial institutions will need. They will also have to use various consumer representative bodies and other stakeholders (including employees) to be able to form a more rounded view about whether processes are working in a fair way.

Most crucially in the end, both the financial institutions and the FSA will have to apply good judgment to assess what is fair. Financial auditors have to do every day when they sign off a company's accounts as a 'true and fair view'. There is no reason why this type of intelligent opinion cannot apply to the sale of banking products. It may just take some time to get there.

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