

# **Chartered Banker**

Leading financial professionalism

## **Professional Banker Diploma**

### **Sales & Service**

#### **Key Updates – September 2011**

**These notes must be read in conjunction with Edition 6 (September 2008) of the main textbook**

**The material contained with this update document will be examined with effect from 1<sup>st</sup> January 2012**

## CHAPTER 2

### Page 45 – The Financial Ombudsman Service

***The final sentence of the first paragraph is amended to:***

The Ombudsman will deal with complaints from, or on behalf of, customers (or potential customers) that are either private individuals or "micro-enterprises" (an EU term covering smaller businesses). "Micro-enterprises" can bring complaints to the Ombudsman as long as their annual turnover is less than two million Euros and they have less than 10 employees.

## CHAPTER 3

### Page 82 – Narrowing the options close

***After the first paragraph, a new paragraph is added.***

At the end of any sale you must make the customer aware of any cooling off period / cancellation rights which depends on whether the sale has taken place within the financial organisation, on the phone or at the customer's premises. This is in line with the requirements of the *Consumer Credit Acts 1974 and 2006*.

## CHAPTER 4

### Page 92 – Selling by telephone

***After the paragraph commencing "One way in which these costs....." and ending in "or a call to a freephone number.", a new paragraph is added***

Before any outbound sales calls are made, you must check that the customer has not indicated that they do not wish to receive unsolicited direct sales calls. The customer may do this either by contacting an organisation direct, or by registering with the Telephone Preference Service (TPS). The legislation that covers this area is the Privacy and Electronic Communications (EC Directive) Regulations 2003.

## **Page 94 – Selling by telephone**

***After the final bullet point, a new paragraph is added***

To protect the customer against these practices the Federal Communications Commission (FCC) developed the *Telephone Consumer Protection Act 1991* which regulates behaviour under the following headings:

1. Time-of-day restrictions
2. Do-not-call lists
3. Identification requirements
4. Established procedures
5. Training requirements

## **Page 95 – Selling by telephone**

***The final paragraph is amended to***

Telephone selling is not a haphazard activity. Rather we need to carefully consider:

- who we call
- when we call
- how we go about the call
- data protection
- confidentiality when leaving messages
- Telephone Preference Service

## CHAPTER 5

### Page 108 – Introduction

***After the first paragraph, a new paragraph is added.***

The financial services provider has the responsibility to ensure that the right person is selling the right products to the right customers at the right time. All staff must be fully competent, meaning they receive comprehensive training, coaching and supervision. Senior management must ensure that audit trails are in place and they are responsible for proper procedures being followed in compliance with Financial Services Authority guidelines.

### Pages 114-115 – Individual Savings Accounts (ISAs)

***The final three paragraphs of this section are replaced by:***

In any tax year (April 6<sup>th</sup> - April 5<sup>th</sup>), UK residents may invest in an ISA up to certain prescribed limits. The limits for ISAs were changed with effect from 6<sup>th</sup> April 2011, with individuals able to subscribe up to a maximum of £10,680 in an equity (stocks and shares) ISA. If preferred, a maximum of £5,340 can be put into a cash ISA, with the balance being invested in the equity element.

These limits apply to individuals, as it is not possible to hold a joint ISA account, and although an individual can hold more than one ISA account, the aggregate sum invested cannot exceed the overall maximum investment limit. The annual ISA subscription limit is to be increased annually in line with the increase in the Consumer Prices Index from the 2012-13 tax year.

The interest paid on a cash ISA is tax free, whilst the return on an equity ISA is paid with 10% tax deducted from the dividends.

### Page 121 – Personal pension home loans

***The second paragraph is amended to***

When a person has a personal pension, they enjoy certain tax reliefs. In addition, they may retire any time from age 55, and can withdraw up to 25% of the value of their pension fund as a tax-free lump sum which will provide the repayment of their home loan. A disadvantage of this method is that the lump sum cannot be withdrawn until retirement age, and as this may be any time from age 55 to 75 years, it is best suited to those for whom retirement is closer.

## **Page 126 – Equity release loans**

***The entire section is replaced by***

### **What is equity release?**

Equity release is a way of getting cash from the value of your home. These schemes can be helpful in certain circumstances but are not suitable for everyone. For example, they can be expensive and inflexible if your circumstances change in the future and may affect your current or future entitlement to State or local authority benefits.

An equity release loan may be used for almost any purpose, and once the facility is agreed between the lender and the borrower, the customer does not need to go back to the lender if they wish to fund the purchase of another asset through the equity release, as they would need to do were they financing through a personal loan.

### **How does it work?**

With a lifetime mortgage, you take out a loan secured on your home. You can choose to borrow a lump sum or to opt for a drawdown facility. This is suitable if you want to take occasional small amounts rather than one big loan, as it means you only pay interest on the money you actually need.

With a home reversion plan, you sell all or part of your home in return for a cash lump sum, a regular income, or both. Your home, or the part of it you sell, now belongs to someone else, but you are allowed to carry on living in it until you die or move out. You are more likely to qualify for an equity release scheme if you have no current mortgage, or if any mortgage you have is relatively small.

Again we need to remember the regulations covering mortgages. The FSA took over the regulation of mortgages in 2004 with the introduction of the Mortgage Conduct of Business sourcebook (MCOB). The FSA regulates the sale and administration of mortgages that meet the definition of a “regulated mortgage contract”. For more information refer to the FSA website.

## **Page 133 – Travel insurance**

***After the final paragraph, a new paragraph is added***

General insurance business has been regulated since 2005 when the FSA introduced the Insurance Conduct of Business Sourcebook (ICOBS). The rules / guidance contained within the Sourcebook apply specifically to the sales and administration process for general insurance, so remember if your customers obtain travel insurance from your organisation you need to ensure you follow ICOBS procedures.

## CHAPTER 6

### Page 148 – Permanent Interest Bearing Shares (PIBS)

*This section is deleted and need not be studied*

### Page 149 – Easy access savings account

*The first paragraph is amended to*

This account was introduced following the withdrawal of the National Savings ordinary account. It must be opened with a minimum deposit of £100 and a minimum balance of £100 must be maintained. It is available to customers aged 11 and over.

### Page 149 – Investment account

*The first paragraph is amended to*

This is another basic savings account, but requires one month's notice of withdrawal. The minimum deposit is £1 and the maximum balance is £100,000. It is available to customers aged 7 and over. Funds may be deposited at a post office, by post or by standing order. Funds are withdrawn by post and a cheque is sent to the account holder. It is also possible to withdraw up to £2,000 cash at a nominated post office.

### Page 150 – Income Bonds

*The entire section is replaced by*

Income bonds are designed to provide savers, aged 7 and over, with a regular gross monthly income paid on or around the 5th of each month. Interest earned is taxable and must be declared to HM Revenue and Customs. The maximum investment is £1,000,000 with the minimum purchase being £500. Interest rates will vary over time. Money invested may be withdrawn at any time, without notice.

The following products are also offered by NS&I, but are outside the scope of this book:

- Children's Bonus Bonds
- Guaranteed Income Bonds
- Guaranteed Growth Bonds
- Direct ISAs
- Guaranteed Equity Bonds

## CHAPTER 7

### Page 168 – Socio-economic groupings

*The opening paragraph and boxed text are replaced by*

Market researchers divide the population into six socio-economic groups or social grades, which are based on the occupation, or job, of the head of a household. These grades give some idea of a household's income and how it might be spent.

- A** Higher managerial, administrative, professional – e.g. chief executive, senior civil servant, surgeon
- B** Intermediate managerial, administrative, professional – e.g. bank manager, teacher
- C1** Supervisory, clerical, junior managerial – e.g. shop floor supervisor, bank clerk, sales person
- C2** Skilled manual workers – e.g. electrician, carpenter
- D** Semi-skilled and unskilled manual workers – e.g. assembly line worker, refuse collector, messenger
- E** Casual labourers, pensioners, unemployed – e.g. pensioners without private pensions and anyone living on basic benefits

### Page 174 – Advertising

*After the first paragraph, a new paragraph is added*

We must also remember that all advertising and market campaigns are regulated and that all financial promotions, e.g. leaflets, posters and flyers, must be compliant with relevant advertising legislation and industry codes of practice, such as the Consumer Credit (Advertisements) Regulations 2010 and the Committee of Advertising Practice Codes. Indeed, one of the Lending Code's key commitments is that advertising and promotional literature must be fair, clear and not misleading and that customers are given clear information about products and services.

## CHAPTER 8

**Pages 186-196 – The sections covering the Introduction; Financial Services Authority; Money Laundering Regulations; Banking and Business Banking Codes are replaced in their entirety by the following**

### Introduction

In this chapter, we are going to look at the legislation and regulatory frameworks within which the financial services industry operates. They represent good business practice benefiting your customer, your employer and you.

Since the impact of the recent credit crunch the focus on the rules and regulations has heightened and questions have been asked around how the situation was allowed to arise in the first place. The full implications of this have yet to become apparent and further changes to the regulations may unfold. As a professional working in the financial services industry, it is important to keep abreast of these changes while fully understanding the reasons behind the rules and their impact on your role in sales and service.

The areas we'll consider are:

- Financial Services Authority
- Money Laundering Regulations
- Lending Code
- Treating Customers Fairly
- Data Protection Act 1998
- Consumer Credit Acts 1974 and 2006

### The Financial Services Authority

The Financial Services Authority (FSA) is the main statutory regulator for the UK financial services industry. Established by an Act of Parliament in 2000, they formally gained their powers on 1 December 2001. They regulate some 29,000 firms ranging from global investment banks to very small businesses, and around 165,000 individuals. This industry contributes 6.8% of UK gross domestic product (GDP) and employs over 1.1 million people, providing products and services to millions of consumers.

#### What is the FSA's purpose?

They were given four specific, and equal, objectives by Parliament:

- maintaining market confidence in the UK financial system

- contributing to the protection and enhancement of stability of the UK financial system
- securing the appropriate degree of protection for consumers
  
- the reduction of financial crime

In their day-to-day operations, their aim is to promote efficient, orderly and fair markets, help retail consumers achieve a fair deal and improve their own business capability and effectiveness.

The FSA operates a risk-based approach concentrating on the big risks and accepting that some failure cannot be avoided. Potential risks are prioritised, using impact and probability analysis, and they then decide on an appropriate regulatory response – in other words, what approach they will take and how much resource will be allocated to mitigating the risk.

### **Who pays for the FSA?**

Their budget is met from a levy on the firms they regulate. They receive no funding from the taxpayer. The amount each firm pays is determined according to its size and the types of business it undertakes. When financial penalties are imposed on firms or individuals, the proceeds are used to reduce fees in the following financial year.

The FSA's budget for 2011/12 is £492m, this being a 7% increase on the equivalent 2010/11 budget of £458m.

### **How do the FSA decide what to regulate?**

The scope of their authority was initially set out in the *Financial Services and Markets Act 2000* (FSMA). Since then, Parliament has extended the FSA's responsibilities to include, for example, mortgage lending and insurance broking.

Some financial services, such as consumer credit and occupational pension schemes, are not regulated by the FSA. In addition, some businesses that may appear to be offering financial services, such as buy-to-let property clubs or compensation claim handlers, fall outside the FSA's scope.

Only Parliament currently has the authority to add to the FSA's remit.

When deciding how to regulate, their aim is to intervene only where there is a market failure and where the benefits of doing so are likely to outweigh the costs. This cost-benefit analysis helps them to achieve a proportionate response to the risks they identify.

### **Who regulates the FSA?**

The FSA's powers derive, ultimately, from Parliament; in practice, they are accountable in a number of ways to the public, industry, government and Parliament.

The independent Practitioner and Consumer Panels, whose status is set out in *FSMA 2000*, exist to ensure that the views of consumers and the industry are taken into account by the FSA which is required to respond formally to their representations.

- Complaints against the FSA may be investigated by an independent Complaints Commissioner, whose findings are published.
- There is scope for judicial review of FSA decisions.
- FSA rules are subject to scrutiny by competition authorities.
- They make an annual report to Parliament, which is published, and the chairman and other senior directors make regular appearances before the Commons Treasury Select Committee.

### **Principles-based regulation rather than “rules”**

This approach is underpinned by the principle that it is neither possible nor desirable to write a rule to cover every specific situation or need for decision that a regulated firm might encounter. Instead, they focus on the principles in *FSMA 2000* which set out in more general terms the types of behaviour expected of firms and individuals (such as: “A firm must conduct its business with due skill, care and diligence”).

Many in the financial services industry support this approach, although there are many operating in compliance or legal departments within regulated firms who have yet to become comfortable with this approach and consistently seek detailed guidance on how to interpret principles in specific situations. The FSA expects that understanding of how to operate in a more flexible, principles-based regime will evolve over time. In the meantime, they accept that, as a result of amalgamating the rulebooks of all the predecessor regulators, the FSA rulebook is a large document. They believe there is scope to reduce it and are looking at ways of achieving this.

### **What does the FSA do to prevent people buying the wrong products?**

The FSA’s philosophy is that consumers should be provided with the information that they need in order to make informed decisions about their financial arrangements; that this information should be fair, clear and not misleading; and that customers have the right to expect that any professional advice they receive is appropriate for their individual circumstances.

With these rights, however, come responsibilities:

- to ensure that the information they provide to their advisers is accurate and complete
- to give proper consideration to the products or services being offered

- to make sure that customers fully understand any risks associated with the product before they buy.

In a competitive market, firms must not be prevented from offering innovative or high-risk products to those investors who are prepared, on the basis of an informed judgement, to accept the risks. They can intervene where they see the risk or reality of products being mis-sold. They can issue consumer warnings, via the FSA website and the media; recent examples have included warnings on high-income bonds, venture capital trusts and equity release schemes. They have a group which identifies potential risk and takes action, in effect, to nip potential problems in the bud. Finally, where individual instances of mis-selling have occurred, they can take enforcement action and secure redress for customers.

### **Why doesn't the FSA investigate customers' complaints and pay them compensation?**

The Financial Ombudsman Service adjudicates on complaints that have not been resolved by the relevant firms. The FSA do not investigate individual complaints, but will undertake investigations where it appears that a particular firm or product is attracting a disproportionate number of complaints.

The Financial Services Compensation Scheme steps in when financial firms go out of business owing money to their individual customers, but does not compensate customers for poor investment performance.

### **What is the FSA's policy on enforcing its rules and fining firms that break them?**

The FSA can censure or fine firms that fail to follow the rules, but formal disciplinary action is only one of the means available. Under the risk-based approach, the FSA cannot attempt to pursue every rule breach and so minor problems are usually resolved through the day-to-day relationships with regulated firms, without the need for any formal regulatory action to be taken.

### **How do the FSA prioritise cases to investigate?**

Cases are investigated formally according to their seriousness and how they fit with priorities. There are no targets for the number, size or type of cases investigated by the enforcement division. Similarly, there is no "table of penalties" when determining the level of financial penalties. Each case is considered individually and any penalty is based solely on the seriousness of the breaches concerned.

The FSA imposed fines totalling £91.2m during the year to 31<sup>st</sup> March 2011 (2010: £33.5m).

## What is the FSA's role in fighting financial crime?

The reduction of financial crime is one of the FSA's four statutory objectives. The *Financial Services and Markets Act 2000* requires the FSA to aim to reduce the extent to which regulated persons and unauthorised businesses can be "used for a purpose connected with financial crime". Financial crime includes any offence involving money laundering, fraud or dishonesty, or market abuse. This objective interacts with the three other objectives (protecting consumers, market confidence, financial stability).

In pursuing the financial crime objective, the main focus is on firms' risk management, systems and controls. They also work closely with the range of other organisations involved in fighting financial crime, such as the government, law enforcement, trade associations, the Joint Money Laundering Steering Group, in developing and delivering effective defences against financial crime.

## Future regulatory structure

The Conservative / Liberal Democrat Coalition Government will reform financial services and abolish the current regulatory regime. The FSA will cease to exist in its current form and, in 2013, it will be replaced by two new regulatory bodies:

- **The Prudential Regulation Authority (PRA)**, which will be a subsidiary of the Bank of England. The PRA will be responsible for promoting the stable and prudent operation of the financial system through regulation of all deposit-taking institutions, insurers and investment banks.
- **The Financial Conduct Authority (FCA)**, which will be responsible for regulation of conduct in retail, as well as wholesale, financial markets and the infrastructure that supports those markets. The FCA will also have responsibility for the prudential regulation of firms that do not fall under the PRA's scope.

The FSA are currently seeking to ensure a smooth transition and will be changing their organisational structure to help them transform from one unitary regulator to the proposed new structure.

## Money laundering

Money laundering is a process whereby the origin of funds generated by illegal means (drug trafficking, gun smuggling, corruption, etc) is concealed. The overall aim is to make the capital and assets that have been obtained illegally seem as though they are derived from a legitimate source, and insert them into economic circulation. Money laundering is not a new phenomenon. Criminals have always endeavoured to conceal the origin of illegally generated funds in order to erase all trace of their wrongdoings.

Nevertheless, the forms and dimensions of this type of crime have evolved considerably in recent years. Since the seventies, the escalation of the drug market and globalisation of organised crime have led to a collective raised awareness of the problem of money laundering.

When carried out successfully, money laundering allows criminals to maintain control over the proceeds and ultimately to provide a legitimate cover for their source of income. Money laundering plays a fundamental role in facilitating the ambitions of the drug trafficker, the terrorist, the organised criminal, the insider dealer, the tax evader as well as the many others who need to avoid the kind of attention from the authorities that sudden wealth brings from illegal activities.

### **Stages of the money laundering process**

#### ***Placement***

This is the first stage in the “washing” cycle. Money laundering deals with vast amounts of cash from illegal activities (for example, street dealing of drugs where payment takes the form of cash in small denominations). The monies are placed into the financial system or retail economy or are smuggled out of the country.

The aims of the launderer are to remove the cash from where it was obtained to avoid detection from the authorities and to then transform it into other asset forms.

#### ***Layering***

Layering is the attempt at concealing the source of the funds by creating complex layers of financial transactions designed to disguise the audit trail and provide anonymity. Typically, layers are created by moving monies in and out of offshore bank accounts through electronic funds transfer (EFT). Given the huge amount of daily electronic transfers, this provides an excellent way for launderers to move their “dirty” money. Other forms used by launderers are complex dealings with stock, commodity and futures brokers.

#### ***Integration***

It is at this stage that the money is integrated into the legitimate economic and financial system. Integration of the “cleaned” money into the economy is accomplished by the launderer making it appear to have been legally earned. By this time, it is exceedingly difficult to distinguish between legal and illegal wealth.

Businesses must have anti-money laundering (AML) policies and procedures in place to prevent funds being used for money laundering and terrorist financing. Such policies and procedures include:

- customer due diligence and ongoing monitoring of customers
- reporting
- record keeping

- internal controls
- monitoring and managing compliance with the regulations
- effectively communicating the policies and procedures within the business.

Financial service providers must be extra vigilant and have anti-money laundering policies and procedures in place such as know your customer (KYC) checks and also stringent checks before employing staff.

On 1 September 2006, the FSA deleted the Money Laundering Sourcebook and replaced it with high level provisions in the Senior Management Arrangements Systems and Controls Sourcebook (SYSC). This action is in line with the FSA's "better regulation agenda", and pursuit of a more risk-based anti-money laundering regime.

This change to the FSA Handbook coincides with the release of the latest Joint Money Laundering Steering Group (JMLSG) Guidance. The JMLSG is an industry body which has been producing detailed guidance on the implementation of money laundering legislation for over 15 years. The JMLSG's revised Guidance (which is available to firms for free on the JMLSG website) was endorsed by the Treasury. The responsibility for delivery of this regime now lies with the financial services industry and, in particular, firms' senior management.

### **What does the new regime mean for firms?**

The FSA prioritises resource based on risk to its objectives. Money laundering is naturally a high priority for the FSA because it involves the illegal profits of acquisitive crimes such as people and drug trafficking and fraud which cause great harm to society as a whole. The risk-based approach is not necessarily the cheapest or easiest approach to money laundering, but it is the most cost effective, proportionate and flexible.

The new regime places greater emphasis on senior management responsibility for managing money laundering risk and ensuring that systems and controls are used in a risk-based manner with an increased focus on higher-risk customers and products.

This is a regime that is focused on results and not inputs, and it is therefore important that firms' AML procedures are used as a means to an end. The framework in place empowers firms to be innovative and creative in their mitigation of money laundering risk so that they may meet their obligations while minimising the cost and inconvenience to themselves and their customers.

One key area of change is customer identification. The FSA has worked hard with the JMLSG to ensure that the industry's ID requirements are appropriate to the risk presented by the customer in question. Firms are of course required by law to identify their new customers but it is up to them to decide how much customer ID is appropriate above a basic minimum level.

Firms' identification procedures should be flexible and fit for purpose so as to ensure not only that customers are identified effectively, but are also not unnecessarily and unreasonably burdened or denied access to the financial system.

Firms are not obliged to implement the new Guidance, but if they have ever to justify their actions to the FSA or a court, it will be taken into account whether they have acted in accordance with the Guidance. If firms do not align their processes with the JMLSG's, they will need to find and demonstrate effective alternative ways of managing their money laundering risks.

### **What does the new regime mean for consumers?**

The new money laundering regime is about encouraging firms to be more flexible in their relationship with customers, including with regard to identification. The law still requires that firms maintain identification procedures that enable them to satisfactorily identify their customers but there now also exists a far greater array of ways in which compliance with this requirement can be achieved.

For more information on why firms require identification and what types of identity documentation are likely to be required for personal customers under the new regime, please see the FSA Factsheet "Checking your identity".

### **Banking Conduct of Business Sourcebook**

You may be aware of the existence of the Banking Code and the Business Banking Code. With effect from November 2009, the Banking Codes were removed and replaced by the FSA's Banking Conduct of Business Sourcebook (BCOBS). This change came about as part of the FSA's response to the banking crisis of 2008 and means that banks are moving away from voluntary regulation to regulation that is more outcomes-based than previously.

### **Communications**

Firms must pay due regard to the interests of their customers and treat them fairly. They must also pay due regard to customers' information needs and communicate information to them clearly, fairly and in a way that is not misleading.

### **Customer information**

Customers must receive full information on the product or service up front so that they may make an informed decision. Thus for example at the outset of the banker/customer relationship, the prospective customer has to be given the terms and conditions of the contract for the bank account, in good time before the customer is bound by them. Banks and building societies must provide reasonable advance notice of changes to key terms and conditions. This is especially important where a change in the service will be to the disadvantage of the customer. For example, customers must be given at least two months' prior notice of any disadvantageous interest rate changes in respect of current and instant access accounts.

This requirement is not applicable however, if the account explicitly "tracks" a reference rate, for example 1% above the Bank of England Base Rate, or the change is an explicit part of the contract.

Post account opening, the customer must also be provided with sufficient “appropriate information” to enable him/her to continue to make informed decisions. This includes information regarding interest rates, charges, rights to cancel, complaints and compensation arrangements and cheque clearing cycles.

### **Statements of account**

Statements of account must be provided to customers, although of course where a passbook is provided this is not necessary, nor where the service is provided “at a distance”, i.e. internet banking, where statements can be viewed/accessed online. No charges can be made for such statements, but where a copy statement is requested, an agreed charge can be made, with the statement being sent within a reasonable period after the request.

### **Post sale requirements**

The general requirement here is that the service provided to customers must be prompt, efficient and fair. This can take many shapes and forms, but there is an absolute requirement to deal fairly with a banking customer who is in financial difficulty.

### **Moving accounts**

For many years, one of the reasons why customers appeared to be indifferent to poor service offered by some banks and building societies was the seemingly interminable time and extraordinary hassle involved with switching their accounts to a new provider. This was to a large extent tackled by provisions within the now defunct Banking Code.

These provisions have now been included within regulation and, for example, where a bank customer wishes to move their banking business and there are arrangements between their bank and the bank that they wish to move to, the existing bank must provide a prompt and efficient service, for example by closing any accounts, transferring the account balances and making arrangements in respect of any direct debits or standing orders.

### **Dormant accounts**

Many people forget about, or lose track of, small deposits of money in bank and building society accounts. The *Dormant Bank and Building Society Accounts Act 2008*, when fully implemented, will enable banks and building societies to transfer money held in dormant accounts for reinvestment in the community, and also provides account holders with a right to repayment.

Prior to that stage, however, BCOBS requires firms to make it easy for customers to trace and, if appropriate, to have access to their deposits. This applies even if the customer cannot provide the firm with sufficient information to identify the account concerned easily, or where the customer may not have carried out any transactions for an extended period of time.

## **Unauthorised payments**

A common complaint from customers relates to phantom cash machine or other unauthorised withdrawals. In these situations, BCOBS now fairly and squarely places the onus on the account provider to prove that the payment was authorised. If it cannot do so, it must, within a reasonable period, refund the amount of the unauthorised payment to the customer and, where applicable, restore the customer's account to the state it would have been in had the unauthorised payment not taken place.

A firm may require a customer to be liable for up to £50 for losses in respect of unauthorised payments arising from the use of a lost or stolen card/cheque book or where the customer has failed to keep their personalised security features safe from misappropriation, such as their personal identification number (PIN). Even this amount may not be deducted if the loss occurred after the firm was notified of the loss, theft or misappropriation.

A customer may be liable for all losses in respect of unauthorised payments where he/she has acted fraudulently or where he/she has intentionally, or with gross negligence, failed to comply with his or her obligations under the agreement in relation to the issue or use of the card/cheque book, or to take all reasonable steps to keep any PINs safe.

## **Right to cancel**

A banking customer has a right to cancel a contract, including a cash deposit ISA, without penalty and without giving any reason, within 14 calendar days.

The cancellation period begins either from the day the contract is concluded or from the day on which the customer receives the necessary contractual terms and conditions, if that is later.

There is no right to cancel a contract (other than a cash deposit ISA) where:

- the interest payable on the deposit is fixed for a period of time following conclusion of the contract
- a contract whose price depends on fluctuations in the financial market outside the firm's control that may occur during the cancellation period, or
- the service is a cash deposit Child Trust Fund (other than a distance contract).

A firm may provide longer or additional cancellation rights voluntarily but, if it does, these must be on terms at least as favourable to the customer as described above, unless the differences are clearly explained.

## **The Lending Code**

The Lending Code is a self-regulatory code which sets minimum standards of good lending practice when dealing with:

- consumers
- small businesses employing fewer than 10 people and with a turnover of less than €2M
- charities with an annual income of under £1M.

The Code covers:

- loans
- credit cards
- charge cards
- current account overdrafts.

The Code does not apply to merchant services, non-business borrowing secured on land, nor to sales finance. Compliance with the Code is monitored independently and enforced by the Lending Code Standards Board.

## **The Key Commitments**

Subscribers to the Lending Code will act fairly and reasonably in all their dealings with customers by, as a minimum, meeting all the commitments and standards in the Code. The key commitments are:

- Subscribers will make sure that advertising and promotional literature is fair, clear and not misleading and that customers are given clear information about products and services.
- Customers will be given clear information about accounts and services, how they work, their terms and conditions and the interest rates that apply to them.
- Regular statements will be made available to customers (if appropriate).
- Customers will also be informed about changes to the interest rates, charges or terms and conditions.
- Subscribers will lend money responsibly.

- Subscribers will deal quickly and sympathetically with things that go wrong and act sympathetically and positively when considering a customer's financial difficulties.
- Personal information will be treated as private and confidential, and subscribers will provide secure and reliable banking and payment systems.

### **Areas covered by the Code**

The areas covered by the Lending Code are:

- Communications and Financial Promotions
- Credit Reference Agencies
- Credit Assessment
- Current Account Overdrafts
- Credit Cards
- Loans
- Terms and Conditions
- Financial Difficulties
- Complaints
- Monitoring

### **Treating Customers Fairly (TCF)**

One of the FSA's principles states that a firm must pay due regard to the interests of its customers and treat them fairly. The FSA have stated that in a competitive market treating customers fairly should be an important element alongside service levels, pricing and customer satisfaction in determining the success of a firm in acquiring and maintaining market share.

The FSA therefore expects all firms to build TCF into their day-to-day operations to help customers achieve a fair deal. Since December 2008 firms must be able to demonstrate and evidence that they are consistently treating customers fairly and that TCF is embedded throughout the organisation.

The FSA has defined six consumer outcomes aiming to ensure an efficient and effective market:

- **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** Where consumers receive advice, the advice 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.

Treating Customers Fairly is not new to organisations – it is a longstanding part of the existing ethos and culture of many financial organisations. It is important however that we continue to put our customers at the heart of everything we do – and can demonstrate this through our activities and interactions with them.

The measure of “fairness” can sometimes be difficult to define. Each of us may well have a slightly different opinion on what it means and indeed how we would like to be treated fairly. Consider how you would like to be treated if you were a customer telephoning the bank looking to purchase a product, or you may be wanting to move house, looking for a loan to build an extension or to consolidate your finances to save yourself money.

Following on from that, consider the difference between treating customers fairly and what the customer perceives as receiving “great service”.

### **Fairness versus service**

The difference between customer fairness and customer service is the difference between what a customer needs and what a customer wants.

<b>FAIRNESS ELEMENTS</b>	<b>SERVICE ELEMENTS</b>
<b>A customer needs ...</b>	<b>A customer wants ...</b>
To be seen by the right person	To be seen quickly
To get a fair deal	For the phone to be answered in 3 rings
To be given a product that meets their needs	To get a great deal
To be given the right information at the right time, enabling them to make an informed choice	Ease of transaction
To have their complaint handled in a fair way	Speed of transaction To have their complaint processed quickly

So fairness and service will combine when customer needs match customer wants, but equally where needs and wants are not aligned, good service does not mean fair treatment.

### Treating Customers Fairly and the 3Cs

COMPETENCE	CONVENIENCE	CONNECTION
Getting the basics right	Meet customer needs	Earning customers' trust and confidence
Don't make mistakes	Be easy to do business with	Understand our customers
Keep our promises	Provide solutions not products	Build relationships and loyalty
Be professional	Keep our customers informed	Treat our customers fairly
FSA Outcomes 5 & 6	FSA Outcomes 2,3 & 4	FSA Outcomes 1,4 & 6

TCF means that customers will:

- be confident that the culture puts their treatment at the heart of how business is done
- be confident that their needs are met and understood by offering products that they are eligible for, in a way that is easy to understand
- have products, brochures and marketing material which is clear and easy to understand and provided at the appropriate time
- receive financial advice that is suitable to their individual circumstances
- receive timely and clear information on changes to products and services
- have a clear, straightforward process to support them if making complaints, and those complaints are dealt with promptly and efficiently.

Senior management are expected to take responsibility for ensuring their firms treat their customers fairly. This includes identifying risks, having appropriate systems and controls in place to mitigate the risks, and making sure these controls are effective.