

TREATING CUSTOMERS FAIRLY (TCF)

Best Practices Guideline for ASISA Members

November 2011

1. Introduction

The Financial Services Board (FSB) has a mandate from Government to protect consumers of financial services that fall under their jurisdiction. As part of delivering on this mandate, the FSB has introduced a Treating Customers Fairly (TCF) programme similar to the one in the UK. The FSB's initiative will apply across all areas of financial services that fall under its regulatory ambit. This will now include the banking sector in line with the twin peaks regulatory model whereby all market conduct regulation will fall under the FSB and all prudential regulation under the Reserve Bank.

The TCF objective is to achieve six key outcomes for consumers at all stages of the product life cycle including product design, marketing and promotion, advice, point of sale, after the sale, complaints handling and the ultimate payment of the benefits at claims (or withdrawal) stage.

TCF is a combination of principles and rules based regulation with a strong emphasis on embedding a TCF culture in conducting business. In order to do this, the TCF programme follows a top down approach by starting with the business leaders and senior managers rather than a delegated "tick box" compliance approach.

ASISA members fully support the objectives of the TCF programme and believe it is one of the best ways of restoring trust in consumers without which the savings pool will not grow as much as it should. TCF is also the foundation of having a sustainable long term business. In short, TCF is good for business and good for all stakeholders, including the country. TCF is simply the right thing to do.

ASISA members have therefore undertaken to work with the FSB towards achieving the six customer outcomes, which will hopefully be achieved in a cost effective and practical way. For ASISA members to be TCF ready they will need to be able to show that they have adopted good TCF practices in their businesses.

2. Purpose

The purpose of this guideline is to assist ASISA members in becoming "fit" for TCF by developing a common understanding of the TCF principles, its outcomes, and how to implement and monitor them in a way that will satisfy the Regulator.

This guideline sets out "best practice" in the TCF context, which ASISA members are encouraged to implement.

3. Generally accepted TCF Principles that ASISA members should follow:

- 3.1 **Customer's Interest:** They should pay due regard to the interest of their customers and treat them fairly in all their dealings with them.
- 3.2 **Integrity:** They should conduct their business with integrity.

- 3.3 **Skill, care and diligence:** They should conduct their business with due skill, care and diligence.
- 3.4 **Management and control:** They should take reasonable care to organise and control their affairs responsibly and effectively, with adequate risk management systems.
- 3.5 **Financial Prudence:** They should maintain adequate financial resources.
- 3.6 **Market Conduct:** They should observe proper standards of market conduct.
- 3.7 **Client Communications:** They should pay due regard to the information needs of their clients and communicate information to them in a way which is clear, fair and not misleading.
- 3.8 **Conflicts of Interest:** They should manage conflict of interest fairly, both between themselves and their customers and between customers and other clients.
- 3.9 **Customer relationship of trust:** They should take reasonable care to ensure the suitability of their advice and discretionary decisions for any customer who is entitled to rely upon their judgment.
- 3.10 **Client assets:** They should arrange adequate protection for client assets that fall under their responsibility.
- 3.11 **Relations with the Regulator:** They should deal with the Regulator in an open and cooperative way and must appropriately disclose to the FSB anything relating to the business of which the FSB would reasonably expect notice.

4. **TCF outcomes that ASISA members need to achieve:**

Fairness is not about measuring process, but about measuring outcome. The fact that a customer is satisfied also does not automatically mean that they have been treated fairly.

4.1	Right Culture	Consumers can be confident that they are dealing with companies where the fair treatment of customers is central to the corporate culture.
4.2	Right Targeting	Products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and targeted accordingly.
4.3	Right Information	Consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale.
4.4	Right Advice	Where consumers receive advice, the advice is suitable and takes account of their circumstances.
4.5	Right Delivery	Consumers are provided with products that perform as companies have led them to expect and the associated service is both of an acceptable standard and as they have been led to expect.
4.6	Right post-sale treatment	Consumers do not face unreasonable post-sale barriers when wanting to change product, switch provider, submit a claim or submit a complaint.

4.1 **TCF starts with ASISA members having the right business culture. (Outcome 1)**

The following six points are recommended to help ASISA members foster a good TCF culture in their own businesses:

- 4.1.1 **Right Leadership:** Leadership at all levels sets the tone of a business, driving behavior of staff and the quality of decisions. Leaders should therefore “walk the talk” and lead by example by making customers central to their values and by proactively monitoring TCF. They need to demonstrate to staff their strong desire to treat customers fairly in their business. The effective delivery of regular key messages to staff is very important here. Middle management must feel empowered by senior management both within their role and in their ability to challenge policies and procedures that are not in line with TCF principles.
- 4.1.2 **Right Strategies:** There should be a clear vision supporting TCF reflected in the formulation and implementation of strategic plans at the highest level. Time and resources should be allocated to deliver on TCF as part of the normal business planning cycle.
- 4.1.3 **Right Decision Making:** Decision making at all levels gives an indication of the TCF culture within a business. It refers to any situation where an individual is expected to make a decision that could have an impact, directly or indirectly, on delivery of fair consumer outcomes. When making a decision, the interests of one group of customers should be properly balanced against those of other groups of customers and shareholders.
- 4.1.4 **Right Controls:** Controls, including Management Information (MI), are a key part of a company’s risk framework and enable a company to manage their customer risks and to identify poor performance. Appropriate MI needs to be available to all levels of management to demonstrate that the customer risks they are responsible for are being managed appropriately and that they are delivering fair consumer outcomes. Customer feedback can provide valuable information on the effectiveness of controls and the delivery of fair outcomes for consumers. Controls, including MI, are important to the delivery of a good TCF culture.
- 4.1.5 **Right Recruitment, Training & Competence:** A business can influence the delivery of fair consumer outcomes by recruiting staff with appropriate values and skills, training staff effectively, and assessing and monitoring their competence. Also required is a robust performance management framework with clear and appropriate objectives linked to the fair treatment of consumers. Such a framework must be regularly reviewed and acted on in order to support the delivery of fair consumer outcomes.
- 4.1.6 **Right Rewards and Recognition:** A rewards strategy includes a number of aspects such as salary, bonus and commission, as well as profit sharing, and staff incentive and recognition schemes. The rewards framework throughout the business should be transparent, recognise quality and support TCF as much as possible. While existing contractual arrangements with staff may make it difficult to change the reward structure in some cases, businesses may wish to consider what safeguards they can introduce to mitigate any risks the reward structure may pose to fair consumer outcomes.

4.2 Ready, fire, aim. (Outcome 2)

ASISA members are strongly advised, in line with what the law already requires, to follow a market needs approach and not a product push approach. Customers can be broadly grouped into three categories:

- Low sophistication: Relatively inexperienced groups with a high level of dependence.
- Moderate sophistication: General consumer groups falling into the mass market.
- High sophistication: Investment groups who have expertise.

These customers have different needs and as a guide ASISA members should be able to show:

- 4.2.1 That research and testing was conducted in product design.

- 4.2.2 Why the product is suitable to a particular market segment.
- 4.2.3 That the product fits customer needs and risk appetite in direct correlation with targeted segments.
- 4.2.4 Whether it is an advice seeking product or not and whether the commission and/or fee is justifiable?
- 4.2.5 That the targeted segments can afford the product plus other related fees.
- 4.2.6 That the product has been stress tested to identify how it might perform in a range of market environments and how customers could be affected.
- 4.2.7 What segments the product is not suitable for.
- ASISA members should detail:
- 4.2.8 The risks and complexity of products.
- 4.2.9 The impact a product will have on customers to whom the product has already been sold.
- 4.2.10 An exit strategy for products where they fail to perform as customers have been led to believe.
- 4.3 **The right information presented in the right way at the right time helps customers make better decisions. (Outcome 3)**
- 4.3.1 ASISA members should communicate information in a way that is clear, fair, balanced and not misleading. The following guidelines apply:
- Communication must be accurate and sufficient.
 - Communication must be presented in such a way that is likely to be understood by the average member of the group at whom it is directed.
 - Where benefits are discussed, there must be a fair and prominent indication of any relevant risks.
 - Important information such as statements and warnings must not be disguised, diminished or obscured.
- 4.3.2 The purpose of the product and its key benefits should be communicated.
- 4.3.3 Pre-sale, point of sale and after sale information should be clearly distinguished.
- 4.3.4 Where a distributor is involved, information meant for the customer should be clearly distinguished from information which is meant for the distributor.
- 4.4 **Appropriate advice. (Outcome 4)**
- ASISA members should be able to prove:
- 4.4.1 **Quality of advice**
- There is a robust process to ensure that good advisers are recruited.
 - The qualifications that their advisers have are appropriate for the advice given to customers.
 - There is a mechanism in place to identify gaps in skills and knowledge.
 - There is a training and competency (T & C) strategy that is followed and reviewed regularly.

4.4.2 Impartiality of advisers

- Quality audits are in place that monitor advisers' sales to assess any potential for product and commission bias.
- Performance related incentives are in place, or have been considered, for advisers to meet certain company specific standards e.g. persistency, complaints, files reviews, and so on.
- A conflict of interest management policy is in place which has been communicated to advisers.

4.4.3 Assessing customer needs

- The six steps in the financial planning process have been followed. This should include the agreement on the advice given, customer needs and objectives, customer attitudes to risks, affordability, tax status, future change in circumstances to recommended products and on-going advice. If these steps have not been followed reasons should be provided.

4.4.4 Point of sale communications

- The risks associated with the recommendation have been highlighted.
- The customer has been provided with a balanced view that is not biased towards a particular product supplier or towards high commission earning potential. Where in-house advisers are only allowed to sell the products of the product provider or where they will have a natural bias to that product provider's products this needs to be disclosed.

4.4.4 On-going advice

- Where a commitment was made to carrying out regular reviews for customers, this service must be offered.
- Advice must be clear and easy to understand, that is jargon free.
- Advice must be tailored to individual customers.
- The adviser must explain why the product and the product provider have been recommended.

4.5 Delivery in line with legitimate benefit expectations builds trust. (Outcome 5)

4.5.1 ASISA members acting as **product providers** should ensure that their products meet the needs of the target market, contain clear and understandable information, and are sold through appropriate distribution channels (for example: direct, through intermediaries, on-line, and on an 'advice only' basis. This should include:

- The design and testing of products and an assessment in broad terms of their suitability for different types of customers.
- Selection of appropriate distribution channels.
- Provision of appropriate information to distributors and, where relevant, customers.
- Monitoring of the end result (whether products are ending up with the right type of customer, whether the products continue to deliver what the provider promised and taking appropriate action when concerns are raised).
- Delivering prompt post-sale service, for example when handling customer complaints.
- At all times acting with due skill, care and diligence and where the product provider enters into a contract with the customer, it must also have due regard to the interests of the customer, treating him or her fairly.

4.5.2 ASISA members acting as distributors of financial products must ensure that:

- Customers have information that they understand, a suitable product recommended for an advised sale, and that the post-sale service the customer expected to receive is provided.
- Customers understand the provider's product information and if not, this is discussed with the provider and consideration to whether the product should be distributed.
- They fully consider customer needs and circumstances (where advised) so that a suitable product can be recommended.
- Post-sale service is consistent with what the consumer has been led to expect.

4.6 No after sales barriers. (Outcome 6)

When customers wish to:

4.6.1 Change products and switch providers ASISA members should:

- Ensure that no unreasonable barriers exist for customers to move.
- Where appropriate satisfy themselves that switching is to the benefit of the customer.
- Understand that switching without clear customer benefit will be viewed as unfair.

4.6.2 Make a claim - “the ease of claiming”

ASISA members should consider:

- Claims handling procedures and processes.
- Speed of settlement and payments.
- Communications with claimants.
- No variations in treatment of customers.
- Claims repudiation rates.

4.6.3 Complain - “the ease of complaining”

ASISA members should consider:

- Complaint handling processes and procedures.
- The speed of resolution of complaints.
- Communicating with complainants.
- No variations in treatment of customers when they complain.
- The number of complaints that get resolved as a percentage of overall complaints over a certain time period.

5. What are the Regulator’s legitimate expectations of ASISA members?

The regulator expects companies to be able to demonstrate that they are consistently treating their customers fairly by:

- 5.1 Instilling a culture within the business whereby management and staff understand what the fair treatment of customers means, where management provides clear guidance on, how it expects staff to achieve this at all times, and where prompt action is taken when things go wrong with the intention of learning from errors;
- 5.2 Appropriately and accurately measuring performance against all customer fairness issues materially relevant to their business and acting on the results;
- 5.3 Measuring and monitoring outcomes; and

5.4 Have no serious failings - because companies have effective Management Information (MI) processes in place and are in tune with any regulatory interest previously publicised by the Regulator or by consumer journalists.

6. What should ASISA members do to meet the Regulator's expectations?

Best practice dictates having a process in place that can benchmark TCF, monitor performance in achieving each of the six outcomes and allow report back on TCF issues along each step of the product life cycle.

In order to do this ASISA members are encouraged to do a TCF self-assessment and to introduce effective Management Information (MI) systems. MI is information or evidence that is collected during a period of business activity.

MI can be useful in evidencing a TCF culture in companies, how senior management measure and monitor TCF performance and whether customers are treated fairly when they interact with the firm.

6.1 Principles of good MI

MI is about more than just numbers. It may relate to activity or customer contact before, during or after the point of sale; service experiences; staff; trends and predictions; and so on.

Quantitative data is valuable to any business, but commentary or opinions also fall under MI and are important to provide a comprehensive and balanced view.

All information relevant to a company, from whatever source, can be described as MI.

Good MI should enable management to make good decisions.

To do this, the MI should be:

- **Accurate** - The correct numbers with any commentary contributed by the right people.
- **Timely** - Available quickly enough after the relevant business activity to enable managers to act.
- **Relevant** - Displaying what a manager can directly influence by escalating it to someone who can take the necessary action.
- **Consistent** - Consistent from period to period, to allow managers to spot trends and make sound decisions.

There may also be MI that is produced for, or requested by, management on a particular issue or concern on an ad-hoc or infrequent basis. This approach is more cost effective if the investigation is a once-off event. In general, though, companies should produce and monitor MI regularly to avoid problems rather than commission it in response to problems.

6.2 Using TCF MI

It is important that companies actively use MI to ensure that they are continuing to deliver fair treatment to customers. To do this effectively, it is critical that there is robust governance and monitoring of MI, which should demonstrate:

- Commitment and accountability from senior management to identify and mitigate risks and issues affecting the fair treatment of customers, ensuring that appropriate action is taken over any issues identified in the MI;
- Robust and appropriate MI and effective analysis that includes qualitative insights not just quantitative data; and
- Processes in place to monitor the MI and to enable the right people to take action and to understand the impact of those actions.

7. Conclusion

Much of what will be required by Financial Service Providers (FSPs) in TCF is already contained in existing legislation like our FAIS Act. Nevertheless TCF is not just about rules; it is about an ethical way of doing business in a sustainable manner. It is about a mindset which places the customer at the centre of all business activities and decisions. It is about making measurable progress in achieving the six TCF outcomes.

While the FSB will be laying down their own rules, guidance and requirements on TCF, ASISA members are reminded that TCF is not a new concept. Much useful TCF information exists on the UK FSA website. The UK has been on this TCF journey since 2001 and much learning material and many guidance notes have been issued that can assist ASISA members with their own roll out of their TCF programme.

We suggest ASISA members at the very least look at the web sites below, where they will find examples and a checklist of good and bad practices and a suggested culture framework, more information on MI, and the TCF roadmap for South Africa on the FSB website.

- www.fsa.gov.uk
- www.fsb.co.za
- www.tcfinfo.co.uk