

13 September 2017

Dear CEO

Consumer Credit firms handling of complaints

I am writing to you as a CEO of a firm that engages in consumer credit activities.

We recently undertook a review of how consumer credit firms approach and deal with customer complaints. We reviewed data, final response letters and website information on complaints from a range of consumer credit firms. While we found examples of good practice to the benefit of consumers we also found material non-compliance and other concerning practices, details of which are set out below.

Resolving complaints effectively is an important way for firms to identify and correct mistakes in the treatment of customers, and an important means to identify and address common or systemic issues that give rise to complaints.

Furthermore, firms' attitudes to complaints are a strong indicator of their culture and whether they have customers at the heart of their business. Those firms that care about their customers and want to do better recognise that complaints are an opportunity to identify and rectify failings and strengthen relationships with their customers. Conversely, those firms that consider complaints as a nuisance and do not take them sufficiently seriously are unlikely to have a culture that leads to positive customer outcomes.

Our Dispute Resolution (DISP) rules apply to all sizes of firms, and are not new to the consumer credit sector. Most firms engaged in regulated consumer credit activities have been subject to the DISP rules since the Consumer Credit Act 2006 came into force on 7 April 2007.

We found examples of non-compliance with the requirements set out in DISP as well as general poor practice relating to the way firms handle complaints.

The main concerns we identified were:

- a failure to provide to customers the required information about the Financial Ombudsman Service – this included failing to provide details of the complainant's right to refer to the ombudsman if they remain dissatisfied
- a failure to provide a clear explanation, to the complainant, of the outcome of the complaint and why this outcome had been reached

- a lack of management controls in place to analyse and remedy any root causes of complaints or systemic problems

Information for customers about how to complain and their rights

Firms are required to publish appropriate information regarding their internal complaints handling procedures and refer complainants to the availability of it. They also need to provide information about the Financial Ombudsman Service on their website. (See rule [DISP 1.2.1R](#))

Almost half of firms' websites that were reviewed failed to include the required references to the Financial Ombudsman Service. In a quarter of websites there was either no information on how to make a complaint and no signposting where to get this information from, or we considered it very hard to find. Where published procedures were available for review, there was often a lack of basic information such as when complaints would be acknowledged or final responses issued.

Close to a fifth of firms indicated that they were operating 'two-stage' processes where there was a further internal escalation if customers were dissatisfied with the outcome of their complaint. Two stage complaints procedures are no longer permitted by our rules as they have been shown to deter customers from pursuing their complaint.

Quality of final responses

Under DISP a firm is required to investigate a complaint competently and explain to the complainant promptly its assessment of the complaint, its decision on it, and any offer of remedial action or redress in a way which is fair, clear and not misleading. (See [DISP 1.4.1R](#))

We would expect firms to clearly articulate whether or not the complaint has been upheld and fully provide all of the required information about the Financial Ombudsman Service in the prescribed format.

There was evidence of a failure in many cases to provide clear explanations of factors such as:

- the assessment of the complaint (including what investigation had been undertaken)
- the decision itself (we saw examples where it was not clear whether the complaint was upheld or not)
- the reasons why a complaint was rejected

We found that approximately one-third of final response letters failed to include at least one element of the required information: setting out the time limits on referring the complaint, stating that the service is free of charge, providing the website address of the Financial Ombudsman Service and enclosing a copy of their leaflet. (See rule [DISP 1.6.2R\(d\)-\(f\)](#) and [DISP Annex 3](#))

We also saw surprisingly high levels of ex gratia payments (both volumes and amounts paid). We noted that, for the same type of complaint, the average amount of ex gratia payments (for complaints not upheld) was very close to the average redress payment (for upheld complaints). Considering our other findings this could be a cause for concern as, for example, it may indicate that some complaints had not been assessed competently or were not upheld when they should have been.

Your firm is free to make ex gratia payments and usually these are used in the interest of customers to achieve a positive outcome for both parties. However, these payments are not a substitute for investigating complaints competently and impartially, for ensuring the customer receives appropriate redress and for accurately reporting complaints data to us. It is also important to ensure that any underlying root causes of complaints are identified and dealt with.

Root cause analysis

Firms are required to put in place appropriate management controls, such as undertaking root cause analysis, in order to identify and remedy any recurring or systemic problems. (See [DISP 1.3.3R](#))

A significant proportion of firms had failed to carry out a root cause analysis on their main cause of complaints. Where they had there were few examples of such analysis resulting in other customers who had not complained, affected by the same issue, being identified, and where appropriate, provided with redress.

Root cause analysis can be a powerful tool in achieving positive changes for both consumers and your firm. Our Thematic Review of complaints handling¹, published in November 2014, found a number of examples of a firm's root cause analysis leading to improvements in its processes.

Accuracy of data

We have also found evidence, in both the work we have undertaken and complaints returns supplied by firms to date, that suggests consumer credit firms may be failing to record and report accurate complaints data.

Firms should note that, since 30 June 2016, they have been required to record and report all complaints, including those handled by the close of three business days after the firm receives them. As a result, we would generally expect (all other things being equal) an increase in reported complaints but in a significant number of instances this was not the case. Generally, as we reported on our website last April, the complaints data sent to us since the change may be subject to possible reporting errors as all FCA-regulated firms get used to submitting the new data to us².

A large number of firms in our project provided estimates of complaint numbers or data that did not correctly add up. Your firm is required to take reasonable steps to maintain accurate records and ensure all the information you provide is factually accurate.

Other recently concluded project

In July we published findings on a follow-up to another project, The Thematic Review of Packaged Bank Accounts³. We found that firms providing such accounts could improve their final response letters in several ways. This, and our findings on other aspects of complaint handling by packaged bank account providers, may also be of general interest to all regulated firms who deal with complaints.

¹ See <https://www.fca.org.uk/publication/thematic-reviews/tr14-18.pdf>

² See <https://www.fca.org.uk/publications/policy-statements/ps15-19-improving-complaints-handling-feedback-cp14-30-and-final>

³ See <https://www.fca.org.uk/publications/multi-firm-reviews/handling-complaints-packaged-bank-accounts>

Actions firms are expected to take now

We expect you to review how your firm identifies, records, and deals with complaints as well as how this is communicated to customers, particularly taking into consideration the above areas. May I also remind you that your firm must be able to evidence its compliance with the applicable regulatory requirements.

You do not need to notify us of your review or the outcome of your review. However, in any future contact we have with your firm we may ask for evidence of such compliance, including details of any review you have carried out on your complaints handling arrangements following this letter. Where we find serious failings we shall consider referring such cases to our Enforcement division for formal action to be taken.

Yours faithfully

Jonathan Davidson

Director of Supervision – Retail and Authorisation