

FCA BUSINESS PLAN 2019/20- RETAIL FOCUS

May 2019

On 17 April 2019 the FCA published its Business Plan 2019/20 setting out its regulatory priorities for the coming year. In the Retail Lending space two areas of focus for the FCA in the High Cost Credit sector will be relending and affordability, while in the Retail Banking space the FCA's Payment Sector Strategy will take precedence. Fair treatment of existing customers and fair pricing in financial services remain the overarching theme for the FCA's focus for 2019/20.

INTRODUCTION

In January 2019 the Financial Conduct Authority (**FCA**) issued its annual [Sector Views](#) publication, outlining the drivers of change and potential harms the FCA has identified in the seven financial services sectors. On 17 April 2019 the FCA published its [Business Plan 2019/20](#) setting out its response to these issues and, accordingly, its main areas of regulatory focus for 2019/20 in the relevant sectors. This note discusses the specific risks that the FCA has identified in the Retail Lending and Retail Banking and Payments sectors and its planned work to address these risks in these sectors in the coming year. It will also touch upon certain cross sector priorities particularly affecting the Retail sector.

RETAIL BANKING AND PAYMENTS

Payment Services are an intrinsic part of the Retail Banking sector. The FCA has increased its focus on them since being given new powers to regulate payments and e-money firms since 2017. In recent years, major regulatory developments, such as the revised Payment Services Directive (**PSD2**) and Open Banking, have led to significant structural changes within the sector. The FCA will continue its work on implementation of these initiatives throughout 2019/20.

1. Operational Resilience

Interrupted services or lost or corrupted data could cause widespread harm for affected individuals and affect wider market confidence

Risks and Harm

The FCA previously raised concerns that interrupted services or lost or corrupted data can cause inconvenience or financial loss for consumers, can lead to reputational damage for firms and markets, and can facilitate financial crime. For example: where a particular outsourcing service provider supports many firms, the impact of any disruption with that provider will have a much wider impact.

FCA Plans

- ▶ The FCA will engage with industry to make its expectations clearer, for example, by promoting its guidance on firms outsourcing to the cloud and other third-party IT service providers.
- ▶ In line with its findings in its Strategic Review of Retail Banking Business Models, the FCA will consider whether co-ordinated action on system resilience and effective prevention of financial crime and fraud in retail banking is necessary.

2. Payments Sector Strategy

Changes in this sector are being driven by advances in technology, regulatory changes, and changing consumer preferences. Resilience and security of systems remain a key issue for the sector

Risks and Harm

The FCA noted that the way in which payments are made is evolving, yet resilience and security of systems remain a key issue for the sector. The FCA also raised concerns that, although technology and innovation enable products and services that can better meet many consumers' financial needs, these can also create barriers for the most vulnerable who rely on shrinking branch networks.

FCA Plans

The FCA will implement its Payments Sector Strategy:

- ▶ It will build on its existing fraud work to improve understanding of financial crime, including how fraudsters operate. It will also continue to work with the Payment Systems Regulator (**PSR**) and support cross-authority and industry initiatives to tackle fraud, such as the Contingent Reimbursement Model and Confirmation of Payee which have been led by the PSR.
- ▶ It will continue to work with other authorities to identify the impacts of innovation on customers' access to payment services, including the implications of the declining use of cash.
- ▶ It will further implement PSD2 and Open Banking by monitoring the success of upcoming requirements relating to Strong Customer Authentication, Account Information Services and Payment Initiation Services. It will also ensure these Open Banking services are introduced securely and will monitor this market.

3. SME Banking

In relation to the SME lending which falls within the FCA's regulatory remit, there are concerns that firms fail to treat SMEs fairly

Risks and Harm

There are concerns that firms' governance, systems and controls may fail to ensure consistently that SMEs are treated fairly. Information and resource asymmetries between banks and SMEs can put SMEs at a disadvantage in understanding complex issues relating to products and charges.

FCA Plans

- ▶ The FCA will review SME banking in more detail.
- ▶ It will assess the value that banks derive from business current accounts (**BCAs**) and business deposit accounts, paying very little interest and benefits in comparison with the high transaction charges and fees those banks charge on BCAs and for other services, such as foreign exchange.

RETAIL LENDING

Affordable lending and fair treatment of existing customers remain a key area of focus for the FCA, particularly, in relation to the High Cost Credit sector. In the Mortgage space, the FCA's initiatives will focus particularly on making it easier for consumers and intermediaries to get the best deal. Other priorities in the Retail Lending sector will include launching a Credit Information Market Study in summer 2019, developing the regulation of Claims Management Companies, and concluding work in relation to the review of the retained Consumer Credit Act provisions.

1. High Cost Credit

Unaffordable lending and borrowing are causing real harm to individuals and society. Vulnerable customers are being disproportionately affected

Risks and Harm

The FCA has already made interventions to address the risks in this sector. The objective of the FCA's High Cost Credit Review is to deliver benefits for many consumers, particularly those who are vulnerable, and to reduce harm across the sector. However the FCA is still concerned about highly concentrated charges in the Overdrafts market and the significant difference between arranged and unarranged overdraft prices.

FCA Plans

- ▶ The FCA will implement its interventions on overdrafts, rent-to-own and other markets covered in its High Cost Credit Review.
- ▶ It will continue to review areas where it believes there may be continuing harm, such as volume of relending and affordability checks.
- ▶ In relation to Overdrafts, the FCA is proposing new rules to address the harm from high prices, repeat use and complex charging structures. The FCA plans to publish a policy statement in June 2019.

2. Business Models That Drive Unaffordable Lending

The FCA is concerned that the business models of some retail lending products, including some subprime credit and second charge mortgage products, are designed to benefit from consumers not repaying their debts

Risks and Harm

The FCA previously raised concerns that some consumers are receiving poor value or unsuitable credit products due to product design, which makes it difficult for consumers to make informed choices. Poor lending and borrowing decisions, such as inadequate pre-contractual creditworthiness and affordability assessments, can lead to persistent debt, financial distress and over-indebtedness. FCA has already introduced measures to address some of these harms. However the FCA is still concerned that some business models, including some subprime credit and second charge mortgage products, benefit from consumers who struggle to repay in full and on time.

FCA Plans

- ▶ The FCA will carry out diagnostic work to identify these business models and the consequences for consumers and will use its findings to identify what action it may need to take.
- ▶ The FCA will undertake consumer research to understand consumer behaviours that contribute to unaffordable lending and expects to complete this work in 2020/21.

3. Mortgages

Consumers are not getting the cheapest mortgages as they are unable to identify the best value product and some are overpaying being unable to switch

Risks and Harm

The FCA's Mortgage Market Study (**MMS**) found that some residential mortgage consumers are unable to switch to cheaper mortgages despite being up to date with payments (so called 'mortgage prisoners'). This is due to changes in lending practices since the financial crisis. The FCA further found that, although borrowers are typically able to obtain a suitable mortgage, they may not necessarily be able to access the cheapest mortgage. The FCA found that the tools available to consumers (and their intermediaries) to help them identify the best value product are not working well.

FCA Plans

- ▶ The FCA has already proposed remedies to tackle the harms being caused to 'mortgage prisoners' and is consulting on new rules to make it easier for these consumers to switch mortgage products.
- ▶ The FCA will continue to implement the remedies proposed in its recent MMS final report in helping consumers to make more informed choices, both about products and intermediary services, and will work with the industry in developing appropriate and innovative products and services.

CROSS SECTOR PRIORITY-RETAIL

The FCA's Business Plan also highlights eight cross sector priorities where its work will impact on multiple sectors in the coming year. The one which is most relevant to the retail sector is 'fair treatment of existing customers':

- ▶ The FCA intends to continue its work relating to fairness in pricing and product value and plans to publish a feedback statement on its discussion paper in the second quarter of 2019/20.
- ▶ It will set out proposals on tackling price discrimination in the cash savings market in the first half of 2019/20.
- ▶ It will finalise its proposals to improve choices in the mortgage market.

HOW ADDLESHAW GODDARD CAN HELP?

Here at Addleshaw Goddard we have considerable experience in advising firms on their regulatory obligations and requirements. Our market leading Regulated Lending and Banking Group specialises in the areas of Consumer Credit Regulation (Credit Cards and Loans), First and Second Charge Lending, Asset Finance, Bank Accounts, Deposits, Savings, ISAs and Unfair Terms and Unfair Practices. We also have specialist Payments Practice Group who supports clients in many areas including with Payment Services and APIs, Open Banking and E-Money Regulations.

If you would like to know more or would like to discuss anything further, please contact:

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