

# Consumer protection and good customer outcomes in an evolving financial services ecosystem

Received (in revised form): 9th May, 2023

**Donna Turner**  
Senior Consultant, Shapes First, UK



Donna Turner

*Donna Turner is a highly capable risk, compliance and financial crime professional with 22 years of experience in the financial services industry. Donna is now a senior consultant incorporating her wide-ranging experience into strategy, business development and problem solving to help firms with their governance, risk and compliance challenges. Donna holds two International Compliance Association (ICA) diplomas, the first in anti-money laundering and the second in governance, risk and compliance. She has been an invited speaker at a number of events including the annual industry forum on retail conduct risk, the Compliance Monitoring & Assurance Strategy industry forum and the International Compliance Association, Big Compliance Festival.*

## ABSTRACT

*Consumer protection and the conduct of financial services firms has been a focal point and priority since statutory obligations on the financial services sector became law in 1986 with the introduction of the Financial Services Act. However, that has not prevented the continuous stream of scandals hitting the financial services industry and the consumers they serve or the never-ending battle to fight against criminal activity and strategies. This paper describes the evolution of standards in relation to financial services consumer protection, the new and evolving risks that consumers face and considers why regulation is needed that requires firms to put their customer needs first.*

**Keywords:** *treating customers fairly, payment protection insurance, consumer duty, Senior Managers and Certification Regime (SM&CR)*

## INTRODUCTION

Our consumption of goods has evolved from needing commodities essential to supporting life — shelter, food, water — to products desired and perceived to be needed to satisfy ever-increasing aspirations of higher living standards. These aspirations have also driven expectations of easier and quicker payments and banking services with minimal physical interaction. The consumer push and financial services pull into an increasingly digital world raises new and evolving risks that regulators and legislators are grappling with. Can regulators protect consumers from a three-pronged attack — the conduct of financial services firms, consumer bias and behaviours, and criminal third parties — in such a fast-paced environment that is constantly innovating new technologies, products, business models and delivery channels?

## FINANCIAL CONSUMERISM

When we open up our first bank account, do we consider ourselves to be a consumer in that moment? Maybe in these modern times we do, but not when banking first came about, when banking was restricted to merchants and traders, not the general public.

For many years both cheques and banknotes were handwritten and were high denominations, not for everyday consumer use. The earliest known handwritten British cheque, dated 16th February, 1659, was written by merchant Nicholas Vanacker drawn on an account at city bankers Messrs Morris and Clayton, for the sum of £400, equivalent

Shapes First,  
Vaughan Chambers,  
Vaughan Road,  
Harpenden AL5 4EE,  
UK  
E-mail: donna.turner@  
shapesfirst.com

Journal of Financial Compliance  
Vol. 7, No. 1 2023, pp. 64–74  
© Henry Stewart Publications  
2398-8053 (2023)

to £76,000 in today's money. The cheque remained popular as a payment method for a long time. However, usage has dropped off significantly, mainly due to alternative methods and new mobile payment technologies being made available. The UK Finance Payment Statistics 2022 report<sup>1</sup> reveals a significant reduction in the value of cheques written from £950bn in 2011 to £203bn in 2021. This is forecast to reduce further to £26bn by 2031. Conversely the value of card payments has increased from £680bn in 2011 to £953bn in 2021 and forecast to increase slightly further to £992bn by 2031.

In 1694 the Bank of England was established as a private bank to fund King William III's war against France. The bank started a conventional banking business, accepting deposits from the public. Banknotes were issued in return with a promise to pay the bearer the sum of the note on demand. The Royal Charter, granted by King William and Queen Mary, stated that the bank was founded to promote the public good and benefit of the people. Two years later the bank no longer issued any notes for sums less than £50. The average annual income was much lower so most of the population never saw a banknote.

It was in 1728 that the Royal Bank of Scotland invented the overdraft, allowing William Hog, a merchant, to take £1,000 out of his account, more than he had in it. This was a large amount of money at the time and a key innovation, paving the way to the modern overdraft that so many consumers rely on today.

The 20th century was the period when major social change was realised through scientific and technological progress. Significant advancements were achieved in health and education (university education expanded significantly in the 1960s) and particularly in computing and electronics with the development of telephones, sound recording, film, television and aeroplanes. Kerryn Higgs, an author and historian states<sup>2</sup>

in her article, 'How the World Embraced Consumerism':

The advent of television greatly magnified the potential impact of advertisers' messages, exploiting image and symbol far more adeptly than print and radio had been able to do. The stage was set for the democratisation of luxury on a scale hitherto unimagined.

These advances were accompanied by the increased consumption of goods and services designed to make life easier, more recreational and luxurious. Consumer culture was born.

This mass consumption had to be supported by improved financial services used by the general public, not just the elite. Just as technology and science was advancing, so too was the financial services sector to keep pace with, complement, and benefit from consumer culture.

The first UK credit card was issued by Barclays on 29th June, 1966. The intent was to make payments easier, quicker and more secure. However, having a credit card also became a status symbol, an item to be envied and sought after among professionals. The first UK debit card appeared in 1987. It incorporated a magnetic strip, together with other security features such as holograms and secure printing. Credit and debit cards have remained very popular, with 2.3 billion debit and credit card transactions made by UK cardholders in the UK and overseas, worth a total value of £83.5bn in January 2023.<sup>3</sup>

The first Internet banking service was introduced by the Nationwide Building Society in 1997. Now all major banks and building societies have Internet access for customers, with some offering Internet-only accounts. Chip-and-pin cards began to be issued throughout the UK in 2003, with the hope that they would reduce card fraud because the embedded chip stored information more securely than the old magnetic

strips. Contactless credit cards became available in 2007 when Barclaycard issued wave-and-pay credit cards. Since then, contactless transactions have grown substantially, with 93 per cent of the 100 million debit cards and 91.5 per cent of the 59 million credit cards issued to UK residents being contactless, worth a total value of £20.6bn in January 2023.<sup>4</sup>

Keeping pace with the technological developments, the image clearing system (ICS) was launched in 2019, enabling digital images of cheques to be exchanged between banks and building societies across the UK for clearing and settlement. Aimed at replacing the paper-based clearing system and speeding up the cheque clearing process, it allowed recipients to receive money more quickly, especially if the cheque was paid into an account via a smartphone, tablet or scanner.

## FINANCIAL SERVICES CONSUMER PROTECTION

Today, consumers have a sense of their consumer rights, such as:

- the right to be informed;
- the right to choose;
- the right to be heard;
- the right to redress;
- the right to consumer education.

These have also transferred across into expectations of being safeguarded against unfair practices, whether setting up and using a bank account, buying a mortgage, using credit/debit cards, applying for a loan, managing savings and pensions or making investments. Just as the UK law seeks to provide consumer protection through the Consumer Protection Act 1987 and the Consumer Rights Act 2015, financial services regulation seeks to achieve the same.

The Financial Services and Markets Act 2000 laid out four primary objectives for the Financial Services Authority (FSA),

including market confidence, public awareness, *the protection of consumers* and the reduction of financial crime. The FSA introduced the treating customers fairly (TCF) principle in July 2006, which has since been incorporated by the Financial Conduct Authority (FCA) into its regulatory and supervisory frameworks. The principle states: 'A firm must pay due regard to the interests of its customers and treat them fairly'.<sup>5</sup> The TCF principle aims to raise standards in the way firms carry on their business by embedding the principle into corporate strategy, culture and day-to-day business operations. Specifically, TCF aims to:

- help customers fully understand the financial products they buy;
- minimise the sale of unsuitable products.

To help firms meet the principle, the FCA set out the following six outcomes:<sup>6</sup>

- *Outcome 1:* Consumers can be confident 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 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.

If a firm achieves these outcomes, it can be satisfied that it is treating customers to the required standards. However, despite the TCF requirements and the outcomes described above, one of the largest financial mis-selling scandals of all time, the payment protection insurance (PPI) scandal happened, leading to the largest consumer redress scheme in British history.

The Citizens Advice Bureau (CAB) led an investigation in 2005 into the cost and effectiveness of payment protection insurance and titled the report 'Protection Racket'. In this report the CAB stated 'evidence suggests that both the sales process and design of PPI products fail to meet the needs of many CAB clients and often just increases their indebtedness'.<sup>7</sup> According to the CAB there were four main areas where PPI was failing:

1. *Expensive premiums*: these often added considerably to the cost of a loan, with policies aimed at consumers on lower incomes often incurring the highest costs by proportion of loan size.
2. *Ineffective cover*: the policies were structured to prevent a successful claim and limit the chances of a payout by making the policies subject to certain exclusions such as age, pre-existing conditions, income loss due to involuntary unemployment, unemployment following dismissal for misconduct.
3. *Mis-sold*: policies were often sold either without the customers' knowledge or as a pre-requisite, for example, to the approval of a loan, or they were sold to people such as the self-employed and people working on temporary contracts who would never be able to make a claim.
4. *Inefficient administration and adjudication*: this involved claimants facing lengthy delays or complicated claims procedures, including unreasonable and costly requests for medical evidence.

The report also highlighted that the system of regulating PPI had led to inconsistency

with policy standards and practices varying greatly, leading to lenders who did treat their customers fairly being undermined by the practices of others who did not.

## REGULATORY RESPONSE TO POOR CUSTOMER OUTCOMES

The FSA took over the task of regulating the general insurance industry in January 2005 and began imposing fines for PPI mis-selling in 2006, starting with a £56,000 penalty for the Regency Mortgage Corporation. Many more followed and the FCA reported<sup>8</sup> in 2017 that 24 firms had paid a total of £13m in fines in the period 2005 to 2010. This amount was however a drop in the ocean when compared to the vast amount of money that firms had to pay back to consumers. In 2021, the FCA reported<sup>9</sup> that, in the period 2011 to 2019, a total of £38.3bn of redress was paid by firms for mis-selling PPI policies.

In August 2010, the FSA issued its Policy Statement PS10/12,<sup>10</sup> which introduced measures designed to improve firms' handling of PPI complaints including how firms should assess the merits of PPI complaints and the approach to calculating redress. It was not until 2013, shortly before the FSA morphed into the FCA, that the Office of Fair Trading and FSA jointly adopted guidance on how payment protection products should be designed — the first intervention by the regulator into how firms should design policies, declaring, 'It is important that firms mitigate these risks to help achieve good outcomes for consumers and avoid significant detriment arising. The previous failings in relation to PPI must not be repeated'.<sup>11</sup>

The FCA expressed in its mission statement, 'Journey to the FCA':<sup>12</sup>

One of the key lessons we have learned from previous market failures, such as payment protection insurance (PPI), is that it can be much more effective to intervene early; to

pre-empt and prevent widespread harm to consumers from happening in the first place, rather than clear up after the event.

Despite many examples of specific and proactive interventions that did in all likelihood prevent harm, the market really only sees clearing up after the event as the norm. The recent regulatory intervention prescribing how firms should design and implement their operational resilience frameworks, new rules designed in part to ensure that non-banking financial services firms can evidence financial resilience, and the senior managers and certification regime are in response to firms failing to invest in adequate controls.

The Financial Services and Markets Act 2000 (FSMA 2000) introduced the approved persons regime. This was meant to ensure individuals in senior positions within the financial services sector were fit to hold those roles. However once approved, there was no real mechanism in place to determine whether that individual still remained fit and proper. In its report, 'Changing Banking for Good' the Parliamentary Commission on Banking Standards (PCBS) proclaimed, 'The Approved Persons Regime has created a largely illusory impression of regulatory control over individuals, while meaningful responsibilities were not in practice attributed to anyone'.<sup>13</sup> The report also described the regime 'as an initial gateway to taking up a post, rather than serving as a system through which the regulators can ensure the continuing exercise of individual responsibility at the most senior levels within banks'. And concluded that 'incremental change will no longer suffice. A new regulatory framework for individuals within banking is urgently needed, and it cannot be secured by adding new layers on the rickety foundations of the Approved Persons Regime'. Scathing words indeed.

The PCBS was appointed by Parliament in response to the financial crisis in 2007–08 and the Libor scandal in 2012. The PCBS

published several reports, detailing recommendations to improve individual conduct and standards in banking. The PCBS identified the lack of individual accountability amongst senior individuals in the banking sector as a key factor, and, as a result, the Senior Managers and Certification Regime (SM&CR) was launched in 2016. SM&CR aims to reduce harm to consumers and strengthen market integrity by creating a system that enables firms and regulators to hold people to account. The regulators saw SM&CR as a key part of transforming culture in the financial industry and an important supervisory tool.

The SM&CR is an individual accountability regime consisting of three parts: the Senior Managers Regime, the Certification Regime, and the Conduct Rules. Under the Senior Managers Regime, a senior individual needs regulatory approval before starting their role; will be held accountable if they do not take reasonable steps to prevent or stop a breach of regulatory requirements; and will have their ongoing fitness and propriety assessed at least annually.

The Certification Regime requires firms to check and confirm that employees who do not require approval from the regulators to carry out their role, but who do perform certain roles that are classified as carrying significant harm or risk, are fit and proper to carry out their job before they start performing this role and at least annually thereafter.

The Conduct Rules set a standard of conduct for all staff, plus an enhanced standard of conduct applicable only to senior managers and certain other individuals. A breach of these Conduct Rules by an employee may be misconduct and may be subject to enforcement action. The FCA's Conduct Rules require individuals to:

1. act with integrity;
2. act with due skill, care, and diligence;
3. be open and cooperative with the regulators;

4. *pay due regard to the interests of customers and treat them fairly*; and
5. observe proper standards of market conduct.

As this paper is being written, the government has launched a call for evidence to look at the legislative aspects of the regime, and the FCA and Prudential Regulatory Authority (PRA) are jointly asking for views on the effectiveness, scope and proportionality of the SM&CR to identify potential policy and process enhancements that could be made to the regime.

### Consumer Duty

So, with the TCF principle remaining a priority for the FCA and the SM&CR regime in place, why have the new Consumer Duty requirements been issued? Sheldon Mills, Executive Director of Consumers and Competition at the FCA, stated,<sup>14</sup>

It means putting customers in a position where they can make informed decisions; where they are presented with suitable products and services for their individual needs; and where they receive fair value for those purchases. The duty will require all firms, whether designing, selling, or advising on products and services, to put their customers' needs first.

The FCA want to see a higher level of consumer protection in retail financial markets. It aims to increase consumer protection by setting higher standards in relation to good, not just fair, customer outcomes. Consumers should: (i) receive communications they understand; (ii) receive products and services that meet their needs and offer fair value; and (iii) get the customer support they need, when they need it. The Consumer Duty will apply to products and services sold to retail clients. Importantly, it extends to firms involved in the manufacture or supply of products and services

to retail clients, even if they do not have a direct relationship with the end retail client.

The Duty is comprised of the following three components:

1. *The Consumer Principle* — this requires firms to have due regard to the interest of their customers and treat them fairly and is intended to strengthen the existing Principles, in particular:

- Principle 6: A firm must pay due regard to the interests of its customers and treat them fairly, and
- Principle 7: A firm must pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair, and not misleading.

2. *Cross-cutting rules* — A set of three overarching requirements that explain the standards of conduct for firms to be able to deliver good outcomes to customers. The rules require firms to:

- Avoid causing foreseeable harm to consumers: firms will be required to take proactive steps to avoid causing harm to customers through their conduct, product design, terms and conditions, marketing, sales and support.
- Enable customers to pursue their financial objectives: firms will need to ensure that consumers are able to make decisions in accordance with their needs and their own financial interests. This entails taking account of consumers' behavioural characteristics and vulnerabilities.
- Act in good faith: a new standard of conduct characterised by honesty, fair and open dealing at all stages of the customer journey and during the whole lifecycle of a product or service.

3. *The Four Outcomes* — give further detail on expectations for the core elements of a firm–customer relationship. The Four Outcomes are:

1. *Quality of products and services:* The FCA wants all products and services to be fit for purpose, designed to meet the needs, characteristics and objectives of a target group of consumers and work as expected.
2. *Price and value of products and services:* The FCA wants all consumers to receive fair value. The assessment of whether the price of a product or service reflects its fair value must consider the following factors: the nature of the product or service; any limitations of the product or service; the price consumers will pay; and any characteristics of vulnerability among the targeted audience.
3. *Consumer understanding:* This outcome considers communications made to consumers to enable them to make informed decisions. Communications will need to be tailored to suit the targeted customer base, the complexity of the product or service offered and consider the channels used to ensure information is clear, fair, not misleading and is made available at the right time and is understandable.
4. *Consumer support:* Firms will be required to provide a level of support that is responsive and meets consumers' needs throughout their relationship with the firm. Consumers should be able to use the products as expected and not face any unreasonable barriers to switch, complain about or cancel a product or service.

Some firms may consider Consumer Duty to be a rebrand of TCF while others will think of it as TCF on steroids — a lot of steroids! Irrespective of any viewpoint, firms will need to consider how they will test and evidence the extent to which and how they are acting to deliver good customer outcomes in relation to all aspects of the Duty and complete an independent and objective annual review of its compliance with the requirements. That in itself is no small undertaking.

## CONSUMER DUTY VERSUS DIGITAL CONSUMERISM

With the rise of digital financial services (DFS), consumers are increasingly conducting transactions on smartphones, other mobile devices and other digital channels. Nikhil Rathi, the FCA's CEO, delivered a speech on the importance of the Consumer Duty stating,<sup>15</sup> 'from masters of the universe to demi-gods of data, financial and Big Tech firms will wield huge power over the direction of our lives'. He also expressed the view that the Consumer Duty, alongside the SM&CR will provide the framework for the FCA to respond to innovations and the use of artificial intelligence (AI), to facilitate new developments, to enable new products to be trialled and to manage the entry of big tech firms into the retail financial services industry. The big four big tech firms are colloquially known as 'GAFA': Google, Apple, Facebook and Amazon. Their platforms are ubiquitous in our lives and used to identify and deliver all manner of digital financial services, but these are not always regulated, or indeed legitimate, financial services.

Digital financial services have certainly delivered substantial consumer benefits and contributed to economic growth and development but, at the same time, have heightened existing consumer risks such as SIM swap fraud, data breaches, and with social engineering and Ponzi schemes becoming more complex and given the dynamic nature of financial technology, introduced new and evolving risks such as mobile app fraud, synthetic identity fraud, authorised push payment scams, and artificial intelligence risks such as algorithmic bias.

Social engineering scams such as phishing (fraudulent e-mails purporting to be from reputable companies that induce people to reveal personal information such as passwords and credit card numbers, which is then used to commit fraud), smishing (phishing via text message) and vishing (phishing via phone

calls or voice messages) target consumers who predominantly use mobile-based DFS platforms. A growing social engineering scam that affects smartphone users is quick response (QR) code fraud. QR codes have been around for some time, but their use in everyday life has exploded since COVID-19. QR codes are easy to create, so scammers can tamper with legitimate QR codes or replace them with their own fraudulent codes. These then redirect the consumer to malicious websites designed to steal sensitive information and money or to download software such as malware, ransomware and trojans to steal sensitive information or files (like photos and videos), and even encrypt a device until a ransom is paid.

The arrival of cryptocurrencies has led to the emergence of cryptocurrency-based Ponzi schemes. These schemes usually convince investors, who do not have the skills and resources (such as third-party research, audited documents and accounts) to be able to evaluate a cryptocurrency as a sound investment, to transfer their funds to agents promising to invest in crypto assets on their behalf.

Given the increased adoption of smartphones, mobile app fraud is on the rise. Mobile app fraud occurs when a fraudster uses a malicious mobile application to deceive a customer, make purchases using stolen payment credentials or compromised customer accounts, and possibly even try to hack the systems behind the apps themselves to gain access to customer data.

Authorised push payment (APP) scams occur when a fraudster tricks a consumer into sending money to a criminally controlled account by pretending to be a genuine company or organisation. The methods used by criminals include investment scams advertised on search engines and social media, romance scams committed via online dating platforms and purchase scams promoted through auction websites. Once

the payment has been authorised and the money has reached the criminal's account, the criminal will quickly transfer the money out to numerous other accounts, making it difficult to trace. UK Finance asserted, 'the level of fraud in the UK has reached a point where it must be considered a national security threat'.<sup>16</sup> Criminals can circumvent protections by using social engineering techniques to trick customers into divulging their one time passcodes (OTPs) so they can authenticate fraudulent online card transactions. Analysis by UK Finance<sup>17</sup> shows that the number of cases of APP fraud scams has increased from approximately 69,000 in H1 2020 to over 95,000 in H1 2022. The gross loss incurred from these scams has correspondingly increased from £188m to £249m for the same period.

Strong customer authentication (SCA) rules in the context of e-commerce and online banking are aimed at reducing fraud by verifying a customer's identity when a customer initiates an electronic payment transaction, accesses a payment account online or carries out an action remotely that may imply a risk of payment fraud. SCA requires a two-factor authentication for online transactions. This has brought biometrics such as fingerprint scanning with touch ID and facial recognition technology used for payment authentication to the forefront. Consumers have experience of using biometrics to unlock devices, access applications and make payments and this is likely to increase as consumers demand fast and seamless ways of verifying their identity and authorising payments. Biometrics are useful for personal authentication in an effort to prevent fraud. However, these technological developments also present some challenges and concerns, including whether the biometric data could be used as a digital tag to track a person either with or without their knowledge; false rejects and false accepts may occur; and the technology may help criminals. Fraudsters can use voice biometrics to



commit impersonation fraud, obtain copies of fingerprints or high-resolution pictures to access customer accounts and biometric data storage can be breached.

While AI and machine learning are not new, they have introduced newer risks and unique challenges for consumers. Computer algorithms that sort, analyse and make decisions may be subject to errors and bias leading to digital services that are unfair, unaccountable and non-transparent. AI is increasingly being used to determine consumer eligibility for financial products. This should eliminate human bias, but AI-driven decisions may also incorporate profiling based on factors such as gender, race, ethnicity or religion that would be unlawfully discriminatory if a person made the decision. Consensus does not yet exist on benchmarks that can be used to measure or assess AI outcomes.

Payment and personal data reveal rich information to financial service providers, and others, and unsurprisingly, given the instances of data breaches over the past several years, this is an area where consumers harbour significant distrust because the usage of such data could be subject to abuse. The General Data Protection Regulation (GDPR) issued in 2016 aims to mitigate the risks raised by technology and big data by, among other things: introducing the concept of data minimisation (using only what is needed); embedding privacy in the product design phase; introducing the concept of extra-territorial applicability; and making the data controller accountable for data processing.

So, in respect of the fast-paced evolution of digital financial services offering consumers a wider range of choice in global markets and the equivalent development in criminal enterprises, what effect will Consumer Duty have and how will it support consumer protection? The FCA's Policy Statement PS22/9 asserts,<sup>18</sup> 'The Duty will advance our consumer protection and competition objectives'. Principle 12 reflects the FCA's expectation that firms should

conduct their business to a standard which ensures an appropriate level of protection for retail customers. Consumer Duty is clearly aimed at mitigating the risks of customer detriment as a result of financial services firms' conduct. Is it also expected that consumer protection extends to mitigating the malicious criminal activities of third parties?

The answer is clearly 'yes'. Financial crime results in consumer harm so for firms to avoid causing foreseeable harm and act to deliver good customer outcomes, firms need to ensure anti-financial crime controls are effective for the entirety of the customer journey, from onboarding, during the ongoing relationship and at termination. It is a difficult balancing act to satisfy stringent anti-financial crime obligations and deliver good customer outcomes. Consumer Duty rules and outcomes need be considered and incorporated in a scalable and sustainable way into anti-financial crime processes, for example, where customer communications are sent as part of identification and verification diligence activity to ensure these are reasonable, proportionate and clear. Know your customer (KYC) processes now need to be designed and implemented in a manner that does not compromise the needs of customers, particularly those with characteristics of vulnerability, or block customers from accessing firms' services. Firms will need to try to improve transaction monitoring processes so that false positive alerts, which may require manual intervention and delay customer payments, are minimised. Suspicious activity reporting should be assessed to determine whether the time taken from the alert to requesting a defence against money laundering (DAML) is reasonable and the holding of funds has not caused unjustifiable detriment to the customer.

Financial services firms have already spent considerable resources in developing consumer protection tools and education campaigns, but criminals will always seek

to exploit new technologies, products and services to benefit their illicit enterprises. Gen Z, the demographic born between 1997 and 2012, are a generation who have grown up in the 21st century with access to technology from a young age. They have a preference for digital and mobile payments and are likely to trust technology companies and digital platforms more than traditional financial institutions. The Consumer Duty requirement of delivering good customer outcomes makes consumer protection even more of an imperative than it ever was before as Gen Z and future generations' use of technology and payment habits shape the future of financial services innovation.

## CONCLUSION

The way people are paying and conducting their financial affairs is continuously changing and the universe of financial service providers is expanding rapidly and beyond the traditional business models. This changing environment creates both opportunities and challenges for the retail payments sector. Can consumers of financial products and services sit back and relax in the knowledge that the new Consumer Duty principle, set of rules and outcomes will prevent future customer detriment and poor outcomes. That no firm will try to entice people into buying complicated and expensive products that are unsuitable, have hidden costs and do not offer fair value or that do not prevent third party criminal and fraudulent activity. Consumer protection in fast-paced technologically evolving markets requires a well-designed, forward-looking supervisory approach. The FCA confirmed,<sup>19</sup> 'the Duty will help to ensure that the level of consumer protection is both appropriate for the environment in which consumers currently transact and for those in which they will transact in the future'. But the chink in this regulatory suit of armour, identified

by UK Finance is that 'Criminal gangs with technological know-how have long since realised that they can bypass the advanced security measures banks have in place and instead attempt to directly target the customer, usually outside the confines of the banking system'.<sup>20</sup>

The achievement of consumer protection and good customer outcomes will depend on how the FCA chooses to monitor and enforce the Consumer Duty and SM&CR requirements; how financial service firms will continue to seek to protect their customers as criminals become ever-more inventive in their own use of technology and data; and how consumers will choose to educate themselves as to the risks they are taking in an evolving and increasingly digital environment for products and services.

## REFERENCES

- (1) UK Finance Payment Statistics 2022 (August 2022) available by contacting UK Finance Data & Research: [ukfststatistics@ukfinance.org.uk](mailto:ukfststatistics@ukfinance.org.uk)
- (2) Higgs, K. (21st January, 2021) 'How the World Embraced Consumerism', BBC, available at <https://www.bbc.com/future/article/20210120-how-the-world-became-consumerist> (accessed 12th April, 2023).
- (3) UK Finance (20th April, 2023) 'Card Spending Update for January 2023', available at <https://www.ukfinance.org.uk/system/files/2023-04/Card%20Spending%20Update%20-%20January%202023.pdf> (accessed 14th April, 2023).
- (4) *Ibid.*
- (5) Financial Conduct Authority (3rd January, 2018) 'FCA Handbook: PRIN 2.1 The Principles', available at <https://www.handbook.fca.org.uk/handbook/PRIN/2/1.html> (accessed 14th April, 2023).
- (6) Financial Conduct Authority (last updated 13th March, 2023) 'Fair Treatment of Customers', available at <https://www.fca.org.uk/firms/fair-treatment-customers> (accessed 14th April, 2023).
- (7) Tutton, P. and Hopwood Road, F, Citizens Advice (September 2005) 'Protection Racket', available at [https://www.citizensadvice.org.uk/Global/Migrated\\_Documents/corporate/protection-racket-final.pdf](https://www.citizensadvice.org.uk/Global/Migrated_Documents/corporate/protection-racket-final.pdf) (accessed 21st April, 2023).
- (8) Financial Conduct Authority (16th August, 2017) 'History of Payment Protection Insurance (PPI) Regulation', available at <https://www.fca.org.uk/publication/documents/history-ppi-regulation.pdf> (accessed 25th April, 2023).

- (9) Financial Conduct Authority (29th April, 2021) 'Monthly PPI Refunds and Compensation', available at <https://www.fca.org.uk/data/monthly-ppi-refunds-and-compensation> (accessed 25th April, 2023).
- (10) Financial Services Authority (August 2010) 'Policy Statement PS10/12: The Assessment and Redress of Payment Protection Insurance Complaints', available at [https://www.fca.org.uk/publication/policy/ps10\\_12.pdf](https://www.fca.org.uk/publication/policy/ps10_12.pdf) (accessed 4th May, 2023).
- (11) Financial Services Authority and Office of Fair Trading (January 2013) 'Finalised Guidance: Payment Protection Products: FSA/OFT Joint Guidance', available at <https://www.fca.org.uk/publication/finalised-guidance/fsa-fg13-02.pdf> (accessed 12th April, 2023).
- (12) Financial Conduct Authority (October 2012) 'Journey to the FCA', available at <https://www.fca.org.uk/publication/corporate/fsa-journey-to-the-fca.pdf> (accessed 25th April, 2023).
- (13) Parliamentary Commission on Banking Standards (12th June, 2013) 'Changing Banking for Good', available at <https://www.parliament.uk/globalassets/documents/banking-commission/banking-final-report-volume-i.pdf> (accessed 25th April, 2023).
- (14) Mills, S. (September 2022) 'What Firms and Customers can Expect from the Consumer Duty and Other Regulatory Reforms', speech delivered at the Consumer Protection in Financial Services Summit, FCA, available at <https://www.fca.org.uk/news/speeches/what-firms-and-customers-can-expect-consumer-duty-and-other-regulatory-reforms> (accessed 25th April, 2023).
- (15) Rathi, N. (16th November, 2022) 'Rolling Regulation Forwards', speech delivered at the UK Finance annual dinner, FCA, available at <https://www.fca.org.uk/news/speeches/rolling-regulation-forwards> (accessed 25th April, 2023).
- (16) UK Finance (2022) '2022 Half Year Fraud Update', available at <https://www.ukfinance.org.uk/system/files/2022-10/Half%20year%20fraud%20update%202022.pdf> (accessed 27th April, 2023).
- (17) *Ibid.*
- (18) FCA (July 2022) 'Policy Statement PS22/9: A New Consumer Duty: Feedback to CP21/36 and Final Rules', available at <https://www.fca.org.uk/publication/policy/ps22-9.pdf> (accessed 4th May, 2023).
- (19) *Ibid.*
- (20) UK Finance, ref 16 above.