The Evolution of Conduct Risk in the Irish Regulatory Environment
Introduction

The concept of conduct risk is receiving increasingly more attention from executives within financial services organisations over the last number of years. Throughout this article we will explore the evolution of conduct of business regulation and the regulatory supervision of conduct risk both in Ireland and in the UK. This article will be beneficial if you are a C-Suite Executive or new to the area of conduct risk. As part of this piece we will consider approaches adopted over the years, reflecting on the lessons learned from our experience both in Ireland and in the UK with a view to looking forward and enabling the establishment of a framework to manage conduct risk as part of the day to day business activities of a financial services organisation.

So why is conduct risk so important and why is it particularly relevant in financial services?

Amongst the things money can buy, there is a distinction between a good and a service - i.e something tangible that lasts, whether for a long or short time and a service that someone performs for you. A financial service is not the financial good itself but something that is best described as the process of acquiring the financial good. In other words, it involves the transaction required to obtain the financial good.

Financial services exhibit market imperfections which can have a devastating consequence on the economy as a whole resulting in financial services being much more heavily regulated in comparison to other industries. One of the key drivers of market imperfections is information asymmetry between buyers and sellers. Buyers tend to buy financial products or services much less frequently than non-financial products and services. Buyers are presented with a complex and broad range of financial products and services which are often long lasting resulting in a long term relationship with the financial services provider. In most cases, the buyer will not discover if the product is good or bad until long after the original transaction has taken place.

Most, if not all conduct focused regulation seeks to address these elements. With these features in mind, conduct of business regulation focuses on how Regulated Financial Services Providers (“RFSP’s”) do business with their customers in establishing rules and guidelines for appropriate business behaviours and practices to achieve the right outcome for the consumer. Financial regulation balances the interests of consumers of financial products and the services with which their sophisticated sellers are offering while maintaining the integrity of the financial system.

“The fast pace of financial innovation has created a complex world for consumers, where the range of available financial products is broad, and the consequences of financial choices are significant. Coupled with this, the typical household tends to have a limited personal track record in making financial decisions, since the purchase of financial products happens only infrequently. This is problematic, since the demands for financial sophistication and knowledge are sizeable if a consumer is to navigate safely through the options put forward by providers of financial services. Financial decisions often require consumers to assess risk and uncertainty, for example, and to consider trade-offs between the near term and the long term.”

The Role of Financial Regulation in Protecting Consumers - Governor Philip R. Lane - 23 Feb 2017 Speech
Birth of Financial Regulation in Ireland

The single regulator of all financial institutions was established in Ireland in May 2003 by the Central Bank and Financial Services Authority of Ireland Act, 2003 and was known at the time as the Irish Financial Services Regulatory Authority (“IFSRA”). It was re-unified with the Central Bank of Ireland on 1 October 2010 and its board structure was replaced by a new Central Bank of Ireland (CBI) Commission.

Over the last number of years, the CBI have positioned conduct risk and consumer protection risk management at the top of their regulatory agenda but the concept has been around for many years before that. The principle of acting in the best interests of the consumer has been at the heart of the Central Bank’s consumer protection agenda since the mid-2000s.

The Code of Practice for Credit Institutions was issued in 2001 in line with Section 117(1) of the Central Bank Act, 1989 containing the principles of good banking practices for all Credit Institutions to follow when conducting business with consumers. This was followed by the introduction of the Consumer Protection Code 2006 which set out the requirements that regulated firms must comply with when dealing with consumers in order to ensure a similar level of protection, regardless of the type of financial services provider which covered cross-sectoral issues such as complaints handling and advertising rules, as well as sector-specific rules. The Consumer Protection Code 2006 was revised in 2012 however the core principles of treating customers fairly and their interests are protected have fundamentally not changed over this period.

“Ensuring that the interests of consumers of financial services are protected continues to be a key priority for the Central Bank as reflected in our mission statement of “Safeguarding Stability – Protecting Consumers” and in the objectives of our Strategic Plan, 2016 – 2018”.

Central Bank of Ireland, Consumer Protection Outlook Report 2017

Irish and European Legislative Developments

In addition to this, the influence of the European Commission in terms of introducing legislation and regulations in respect of consumer protection issues has continued to increase. At a European level in recent years, the publication of the Mortgage Credit Directive, the Payment Accounts Directive and Key Information Documents for Packaged Retail and Insurance-based Investment Products continues to align with the prioritisation and focus needed on outcomes of actions and transparency undertaken by RFSPs in their day to day activities.

In other sectors, there have been significant developments in the area of conduct risk. At the time, when the Markets in Financial Instruments Directive (“MiFID”) was first introduced in 2007 to replace the Investment Services Directive (“ISD”), it was considered a game changer in terms of introducing a focus on appropriateness, suitability, transparency, conflict of interest etc. All of these elements were key in achieving the overall objective of enhancing consumer protection and safeguarding consumers when buying financial services or products which addresses many of the features identified at the beginning of this article.

Over the years the promotion of an increased focus on conduct risk has become more and more apparent across key pieces of legislation, codes and guidance. Some examples include (but are not limited to):

- the Insurance Mediation Directive (“IMD”)
- Consumer Credit Act (“CCA”),
- Consumer Credit Directive (“CCD”),
- Packaged Retail Insurance and Investment Products Regulation (“PRIIPs”),
- the Insurance Distribution Directive (“IDD”),
- Markets in Financial Instruments Directive II and the Markets in Financial Instruments Regulation collectively known as ‘MiFIDII’
- Minimum Competency Code (“MCC”),
- EBA guidance on Product Oversight,
- Payments Services Directive 2 (“PSD2”)
Rules based regulation vs principles based regulation

The ongoing challenge faced by the CBI (and other Regulators) over the years in consumer protection has been to establish the right balance between applying overall principles that can be interpreted by individual regulated firms (“principles-based regulation”) and binary rules that require strict adherence (“rules-based regulation”). Setting the rules is important and necessary to establish a standard of consumer protection compliance across the financial services industry especially given the level of variance in issues that may arise in consumer protection. This reinforces the importance of principles and rules, but unfortunately it is not possible to anticipate every possible scenario or outcome for a consumer, hence the need to transition the focus to the consideration of the impact on consumers’.

The CBI over the years have evolved their position in this regard to transition to a risk based approach being applied:

- In its 2007 Annual Report, the Financial Regulator (later to become the Central Bank) stated “We are committed to a principles-led approach to regulation”.
- A year later, in its Strategic Plan 2008-2010, the Financial Regulator referred to “...our principles led and risk-based approach... We do not, of itself, take a rules based approach to supervision”.
- The Strategic Plan 2013-2015 declared that the Central Bank had “…adopted a risk based approach to supervision underpinned by a credible enforcement deterrent. The Probability Risk Impact Supervisory System (PRISM) represents a challenging and proportionate risk-based system of supervision for all financial institutions operating in Ireland”.

The CBI appear to be moving away from the traditional application of principles-based regulation and transitioned to a risk based approach which is focussed primarily on the ultimate outcome/impact on the consumer following the engagement and actions undertaken by the RFSP.
Looking to the UK

The Financial Services Authority (“FSA”) was established as the principal UK financial regulator in 2001. Firms were required to abide by the Principles for Business, which have existed since the inception of the FSA. Principle 6 states “A firm must pay due regard to the interests of its customers and treat them fairly”. In 2006, the FSA published its six Treating Customers Fairly (“TCF”) outcomes, which identified areas of risk which firms were required to manage in the way they dealt with customers. Some firms struggled to embed TCF into their business models. Under the TCF regime, responsibility remained with customers for assessing the quality and suitability of the products they were choosing.

In 2013, the FSA evolved to become the Financial Conduct Authority (“FCA”) with the FSA’s main prudential responsibilities being transferred to the newly-created Prudential Regulation Authority (“PRA”). Steps were taken to introduce more conduct-focussed language in the FCA’s documentation e.g. Business Plan and Risk Outlook. The focus from the FCA transitioned from TCF to a focus on issues that impact their consumer protection objective beyond the six stated TCF outcomes. An integrated approach to managing conduct risk evolved that no longer focussed on the point of sale, considering both symptoms and causes of unfair outcomes e.g. product governance, conflicts of interest, distribution channels, etc. This new approach to managing the risk to consumers now focused on the RFSP being responsible for assessing affordability and suitability.

In the wake of the PPI mis-selling scandal in 2010 and the significant enforcement actions in 2014 and 2015 in respect of misconduct (e.g. Santander UK - providing unsuitable advice to customers, Barclays - financial crime failings and Lloyds - failing to treat customers fairly when handling complaints), the FCA have now incorporated the risks to customer outcomes into their wider rules and policy framework e.g. Fair and Effective Markets Review 2015, Remuneration Code 2015 and Senior Managers Regime 2016.

While the outcome focussed approach (i.e. the risk that firm behaviour will result in poor outcomes for customers) in the UK is definitely more established and mature than that evident in Ireland, there is still a bit to go in terms of embedding this approach into business as usual. The legacy issues continue to arise despite the volume of remediation projects and the introduction of pro-active monitoring and assurance programmes being established. This reinforces the need to engage a cultural transformation across RFSP’s both in the first and second line to really make an impact as many Firms continue to focus on compliance with the minimum regulatory requirements rather than transitioning towards delivering more meaningful outcomes for their consumers.

“...Whilst we do not doubt the genuine commitment of many senior management teams to change their businesses, some issues appear to remain deeply embedded and will require more focus... Embedding cultural change in a firm that acts in the interest of consumers is the essential next step if firms are going to regain trust from their consumers...”

John Griffith-Jones, FCA Chairman, 2014 Conduct Risk Outlook
Consumer Protection Focus in Ireland

The Consumer Protection Outlook reports released by the CBI since 2015 each year continue to highlight the CBI’s key priorities for the coming years including their expectations of all RFSP’s in developing and implementing Consumer Protection Risk Management Frameworks to manage the risks to their consumers and embedding a client focused culture within their organisation.

The CBI’s 2017 Consumer Protection Outlook Report sets out the consumer protection priorities for the year ahead. The Report also drew the attention of boards and senior management in regulated firms to the consumer risks that they must consider in putting the consumer at the centre of everything they do. See figure 1 of this paper which summarises the key elements of the Consumer Protection 5 C’s framework. The CBI in recent years introduced their “Consumer Protection 5 C’s framework” to respond to this apparent “tick-box” approach which had evolved in respect of consumer protection compliance. The framework is used by the CBI to provide a sound basis for a risk-based approach to deliver on their consumer protection objectives and the outcomes they strive to achieve through each of the key elements; Consumer, Culture, Confidence, Challenge and Confidence. The focus of this model was (and continues to be) to identify and prioritise key consumer risks and from that to devise consumer protection actions to deal with those risks. This can only be achieved where firms have a consumer-focussed Culture which enables consumers to have Confidence in both the financial decisions they are making and the firms they are dealing with. The Central Bank will continue to Challenge firms, where their focus is not on those consumer outcomes. As a last resort, the CBI have noted that there is a need and appetite for appropriate regulatory action where compliance standards are not being met in line with expectations.

This was the first stepping stone by the CBI in shifting the focus towards consumer outcomes i.e. not just being able to demonstrate compliance individual rules but moving towards RFSP’s on an ongoing basis, measuring and monitoring the outcome on their consumers. This is similar to the approach which has been adopted in the UK by the FCA for a number of years.

In May of this year, the Central Bank of Ireland Commission approved the restructuring of the Central Bank’s Financial Regulation functions to establish a Financial Conduct pillar which has further reinforced the level of importance the CBI now place within their financial conduct mandate and ultimately lays the foundation for the focus which the CBI will place on the supervision of conduct risk.

In March 2017, the CBI released a Guide to carrying out Consumer Protection Risk Assessments (“CPRA”) outlining their expectations on RFSP’s in respect of conduct risk. In the following section, we will outline these expectations, while taking into account some of the learnings we have from the UK where the model for conduct risk management has been established for many years.

Figure 1. Extract from Central Bank Consumer Outlook Report 2017
Consumer Protection Risk management Assessment (“CPRA”) Model

The CBI have a statutory mandate to ensure the best interests of consumers are protected. The CBI aim to deliver on that consumer protection mandate in the context of three desired consumer protection outcomes, which are:

01. Positive consumer-focused culture that is embedded and demonstrated within all firms;
02. A consumer protection framework that is fit for purpose and ensures that consumers’ best interests are protected; and
03. Regulated firms that are fully compliant with their obligations and are treating their customers, existing and new, in a fair and transparent way.

In 2016, the CBI enhanced its model for assessing conduct risk, recognising that risks to consumers can stem from a firm’s strategy, business model, culture, governance and other internal structures, its systems and processes, or the behaviours of individuals at any level within the firm.

The CPRA Model establishes a new and more intrusive approach for supervisory assessments and provides the CBI with a Framework to assist supervisors in carrying out an assessment of how consumer protection risk is managed within regulated firms. CPRA’s will allow the CBI to assess how these firms are identifying and managing risks to consumers in the context of their strategies, business models and their internal structures and processes. These assessments will be in addition to and support their regular program of thematic inspections.

All RFSP’s must work towards the development, implementation and embedding of a fit-for-purpose Consumer Protection Risk management framework. This framework should identify and manage the specific risks that the firm’s external operating environment, strategy, business model, internal processes and procedures pose to consumer protection.

Significant issues of consumer protection risk are well publicised, for example, the tracker mortgage-related failings. These conduct and compliance failures highlight the need for firms to improve their risk management and risk behaviour and have put a spotlight on the crucial role that a firm’s culture plays in ensuring fair outcomes for consumers. They also emphasise that an overly legalistic, box ticking approach to consumer protection and conduct risk is not sufficient.

“A positive consumer-focused culture is one in which consumers can be confident that firms are acting in their best interests, throughout their entire relationship with the firm. To establish this culture, we have been clear in our expectation of firms that they must understand the sources of risks to consumers, in the context of their operating environment and business model, to enable them to pre-emptively identify and proactively manage these risks. Our new supervisory model enables supervisors to assess how firms’ consumer protection risk management frameworks are designed and governed and, importantly, how effective they are in practice at delivering fair consumer outcomes.”

*Director of Consumer Protection at the time (Current Director of Corporate Affairs), Bernard Sheridan (28th March 2017);
What is considered an appropriate Conduct Risk management framework?

The CPRA model, in its entirety, is reflective of an appropriate Consumer Protection Risk management framework. The CBI’s expectation is that, over time, all firms engaged in the provision of financial services will have risk management structures that are aligned to the above framework, proportionate to the nature, scale and complexity of the RFSP. The below outlines the modules of the CPRA model for an effective Consumer Protection Risk management framework including lessons learned from the UK market. The CBI’s approach to Conduct Risk is very similar to that adopted by the FCA in the UK. We spoke with Industry Leaders in the UK to gain learnings from their experience to date across each of the CPRA modules.

**Governance & Controls**

This module outlines the expectation to have an appropriately designed organisation structure which allocates roles and responsibilities within the organisation to identify and manage Consumer Protection Risks. It covers board and management committees, strategy, risk appetite and risk management, controls, consumer monitoring and consumer reporting.

**Roles and responsibilities for Conduct Risk**

A number of UK firms have found that the day to day management of conduct risk sits best in the first line of defence with appropriate challenge coming from the second line of defence. This has helped to embed the cultural change needed in the first line in relation to consumer protection risk. It is in the first line where most of the customer relationships sit.

**Effective controls and reporting**

Outcome Testing is one of the key controls in UK firms in the first and second line of defence. This is a broad review of whether the customer received the right outcome giving consideration as to whether the root cause of an error or complaint was a process or a person. The vast majority of mature UK firms are reporting outcomes as part of their conduct MI, particularly in the key customer interaction areas, such as complaints, claims, collections and sales.

**People & Culture**

This module considers the expectation for a firm to have structures in place to promote a truly consumer-focused culture within the firm with specific focus on the firm’s values and behaviours in relation to Consumer Protection Risks, leadership, the tone from the top, training, performance management, rewards and incentives.

**The tone from the top is essential**

It is imperative that the Board of Directors and the Senior Management team set the tone regarding conduct risk within the organisation. A UK firm ensured this happened by appointing a Consumer Risk Champion who sat on the Board. Typically, this was a Non-Executive Director, however their enhanced role was to act in the customer interests in Board meetings and committee discussions ensuring that the customer is at the centre of all strategic decisions.

**Performance management, rewards and incentives**

A number of UK firms have included conduct and customer objectives into all staff appraisals. This helps organisations to ensure their staff remain focussed on the customer regardless of their role and clearly sets the tone from the top in relation to the importance of consumer protection and providing the best outcome for customers.

**Lessons learned:**

- The tone from the top is essential
- Effective controls and reporting
- Performance management, rewards and incentives
There are three interlinked modules in the Product Life Cycle Assessment:

**Product development**
This module focuses on ensuring that all aspects of the development of a product throughout its life cycle achieve the best possible outcome for its consumers. The module focuses on aspects including product governance arrangements, new product development, existing product reviews, distribution arrangements, product management information and marketing and advertising.

**Sales/transaction process**
This module focuses on ensuring that appropriate governance arrangements and transaction processes are in place to achieve the best outcomes for consumers. Quality assurance and the sufficiency of management information are key focus areas.

**Post-sales handling**
The module focuses on ensuring that appropriate post sales governance arrangements are in place and post sales systems and controls are operating as customers as expected, specifically in relation to consumer protection risks. Again, quality assurance and the sufficiency of management information are key focus areas.

**Lessons learned:**

**Governance Arrangements**
There are two elements in relation to Product Governance. The first is the New Product approval process which requires a clear approval, escalation and governance process, but also the review of existing / legacy products.

Secondly, there needs to be a review cycle for all existing products to ensure they continue to offer value for customers.

Where issues are identified with the product, these should be rectified proactively, which might involve moving customers to different / new products.

**New product development**
Customer panels are used more and more to test new products including marketing material, to ensure that the product lands well in the target market before product launch. Many firms in the UK provide suitable consumers to take part in the customer panel if the firm has not established their own customer panel. They also proactively seek customer input post sales of the product with many doing customer call backs to seek feedback both on service but also whether the product met their needs.

Each module is comprised of a number of different elements, and each of those elements is linked to a particular consumer protection risk. When the Central Bank carries out a CPRA, it will likely concentrate on a particular module or modules, or specific elements of one or more modules, depending on the business model of the relevant regulated firm.
How will the CPRA onsite supervisory review work and what does it look like?

**Notification**
Each selected firm will receive a formal communication from the CBI in the first instance, notifying them of the planned CPRA and informing the firm of the timing and intended duration of the on-site assessment, the documentation request and other required information.

**Scope of Work**
Prior to commencing the on-site assessment, notice will be given in relation to proposed observation by supervisors at board and/or committee meetings; proposed interviewees and timeline for interviews and relevant contact personnel in the firm, who should be available during the on-site assessment.

**On-Site**
On-site assessments will typically range from two days to one week in duration, but may extend beyond this in some cases depending on the size of the firm and the breadth of the CPRA scope. Supervisors will:
- review policies and procedures (including HR policies, such as recruitment, induction, performance management and reward);
- observe at board and key committee meetings;
- ‘walk-through’ systems;
- conduct substantive testing to test consistency of application of the controls and interview a selection of staff from all levels in the firm, i.e. board level, second and third line functions and front-line business units, product development, marketing and sales staff.

**Formal Feedback**
Formal feedback will be issued to the firm after the supervisors’ findings and recommendations have been considered. Where risks are identified which are deemed unacceptable, the CBI will impose a risk mitigation programme (“RMP”) on the firm, explaining the nature of the risk identified and requiring it to perform outcome-focused action(s) to mitigate the risk within a prescribed timeframe.

Supervisors will form judgements on the Consumer Protection risk posed by the firm in relation to each risk category based on an assessment of the design and effectiveness of the firm’s controls. This rating will be recorded on the PRISM system.

The rating of risks and firms will facilitate the Central Bank’s view of the maturity of Consumer Protection Risk management frameworks.
What are you now required to do, what is the expectation?
Many Firms will reflect on the CPRA and wonder what is new here? And what is different from what was expected of them previously? The answer to this question is yes there is a new requirement on Firms. The CBI have noted explicitly that Firms must “work towards the development, implementation and embedding of a fit-for-purpose Consumer Protection Risk management framework”. While it is recognised that there are elements of the CBI’s CPRA Framework which Firms will already have in place and may just require some amendments/mapping to their current processes and procedures, the CBI have noted that their expectation on Firms is that the “true solution can only be achieved through a more holistic self-assessment of Consumer Protection Risk by the firm”. It will not be sufficient to just bundle existing procedures together.

During the onsite visit, the CBI Consumer Protection Supervision team will request at the outset to review what the Firm has produced in respect of consumer protection risk management in their organisation and how this encompasses the key pillars set out in the CBI’s Framework. Depending on the size of your Firm, the CBI have noted that they will recognise that the risk management framework can be designed in a way that is proportionate to the nature, scale and complexity of the firm and the risks they are designed to manage while taking into account the five modules outlined in the CBI Framework.

From a practical perspective there are three distinct phases of review which Firms need to undertake in aligning to the expectations of the CBI set out in the CPRA. These include the following:

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<th>Initial Assessment</th>
<th>Embedding</th>
<th>Monitoring &amp; Review</th>
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<td>• Gap analysis of the “As Is” position to determine the action plan for implementation and the overall impact of regulatory change;</td>
<td>Review to consider if processes, controls &amp; systems are designed effectively and embedded throughout the operational framework.</td>
<td>Review and consider the controls in place to monitor the effectiveness of the controls and to ensure they are being applied in the way that was intended.</td>
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<td>• Identification of Consumer Protection Risks;</td>
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<td>• Allocation of processes &amp; controls;</td>
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<td>• Risk Appetite for Consumer Protection Risk;</td>
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<td>• Review Governance &amp; Oversight for CP risk;</td>
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<td>• Awareness;</td>
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<td>• Clear allocation of ownership &amp; accountability of risk;</td>
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<td>• Introduction of MI;</td>
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The outcome of the above steps is likely to be the identification of conduct issues that have been latent to date. Real change is unlikely to happen overnight so firms must commit to the process over the medium to long term. Although it will be challenging, a standard approach will mean firms can address legacy issues and focus on the future. An appropriate conduct strategy should be consistent with a consumer centric strategy.
Lessons learned
While it is important that conduct risk management has a focus on identifying and preventing current issues and future risks to customers, firms remain responsible for historic conduct issues. Dealing with past business failures can be extremely challenging for firms. In many cases, staff involved at the time of the misconduct will have moved on and records may no longer be available. Misconduct related to acquired businesses or third parties can create additional complexity. Current regulatory standards and expectations may be applied to historic activity, creating uncertainty for firms. Where the CBI (or the firm itself) considers customers may have been put at risk, the firm may need to undertake a remediation programme to redress any detriment it has caused its customers.

Common historic failures in this regard include:

- Unclear governance structures and unclear or poorly defined risk appetite.
- Lack of clarity around roles and responsibilities across the 3 lines of defence (3LoD).
- A culture that does not put the customer at the heart of the business.
- Not undertaking robust root cause analysis and addressing issues proactively.
- Poorly defined measures of performance in terms of the delivery of customer outcomes.
- Lack of focus organisationally on target market and the design of products.
- A lack of the right skills, knowledge and experience.

In response to these themes the focus of remediation reviews continues to cover the same key topics for example:

- Corporate responsibility and good governance practices
- Whistleblowing
- Incentives and remuneration
- Sanctions and claims
- Product design (plain and simple)
- Conflict of interests
- Banking transparency
- Abuse of power and market
- Inside information
- New banking players not regulated

Conduct vs Prudential Risk
Conduct Risk has become elevated as a material risk for a RFSP alongside regulatory and financial risk. Firms must define and manage Conduct Risk explicitly as part of their risk management framework and be able to demonstrate that good conduct and the delivery of fair customer outcomes is at the heart of their business model.

In taking these steps, firms are asking the question where conduct risk should sit. Is it a subset of operational risk or regulatory risk? Should it be positioned in the first line, second line or both? Should it form part of non-financial risk and if so how would that look? Who is responsible for conduct risk and what does the reporting line look like? These are common questions that continue to arise to which the Regulators in Ireland, the UK and at a wider European have not provided a single view. This can be challenging as there is not yet a common best practice approach which has been deemed acceptable for application. Unfortunately, there is no one-size-fits-all solution. The implementation of an integrated conduct risk management framework will look very different depending on the size and complexity of the organization. As a result, both the starting point and immediate priorities will differ greatly across different organisations.
Conclusion
While the CBI’s focus on conduct risk has continued to evolve over the years, the CBI have made it clear that their expectation on RFSPs in this regard and the level of supervisory focus will only continue to grow throughout 2018. The CBI have advised that in addition to the targeted CPRA reviews that already commenced across the Banks during 2017, particular focus will be placed on reviewing culture, performance management, sales incentives and product governance during 2018 across all sectors in Financial Services.

Under the new Financial Conduct Pillar of the CBI, where cases of behaviour falling below expected standards are identified, the CBI have advised that they will look at ways to enhance accountability for any gaps identified. This linkage to the assessment and review of individual fitness and probity if anything heightens an immediate importance of getting a fit for purpose view of consumer risk in place. In preparation for such visits and also because it is a good exercise to establish a clear view of conduct risk across the organisation, RFSPs need to start working towards producing their own consumer protection risk management framework that addresses (at a minimum) the five key modules of the CBI’s CPRA guidelines. While it is recognised that there are elements of the CBI’s CPRA Framework which RFSPs may already have in place, the CBI have noted that based on the pilot testing exercise they conducted there is still some work to do in establishing a clear and full assessment of consumer protection risk and embedding a solution that takes into account achieving the right outcome for the consumer in a consistent and sustainable way.

“It is important that all regulated financial services firms understand the risks faced by their consumers, not only from the products and services they buy but also from the behaviour of the firms themselves and that of the wider market”.

“In order to deliver the right consumer outcomes, in a consistent and sustainable way, firms need to have appropriate risk management frameworks in place. The enhancement of our Consumer Protection Risk Assessment model enables us to assess how firms are managing the risks they pose to consumers and ensure they have appropriate risk management frameworks to deliver for their consumers”.

“This introduction of CPRAs is a key element of our supervisory strategy to influence a more positive consumer-focused culture in the firms we regulate”.

Bernard Sheridan, Director of Consumer Protection (at the time of publication of the CPRA)
Foreword, Guide to Consumer Protection Risk Assessment
The Evolution of Conduct Risk in the Irish Regulatory Environment

This is a key area of interest for the CBI and as such many firms will be reflecting on this to determine the actions they need to undertake to align to the evolving expectations of the Regulator. This is a challenge for all involved in particular when there are competing business priorities within your organisation as well as other regulatory projects already underway.

If you would like to discuss this further to better understand what is expected and to seek support in determining the level of impact on your organisation, please contact us.

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