Alongside the challenges of ongoing management of Covid-19 including an extended lockdown, 2021 was a seminal year for remediations in the financial services sector. Reflecting on key challenges or themes for remediation for the banks in 2021 can provide valuable insight in looking forward into 2022 and planning for better customer outcomes and more efficient remediation programmes.

Regulatory activity is increasing

New Zealand regulators invested in growing their enforcement teams in 2021, and made clear public statements about their intent to make good on regulatory promises such as holding banks and insurers to account on good customer outcomes. The Financial Markets Authority (FMA) are setting ‘visible expectations’ on how they intend to implement the law, good conduct and their enforcement strategy. They are increasingly active in supervision response, including stating publicly that self-reporting of issues to the FMA will not mitigate potential regulatory outcomes – they encourage a focus on putting customers right, and on timely and accurate customer remediations as well as good governance of any remediation activity.

The FMA also released a thematic review on credit card related insurances, finding that they are poor value products. In its media release, the FMA encouraged customers to consider the value of these products – these kinds of public statements show the focus of the FMA on good customer outcomes, which banks should pay close attention to when balancing priorities and resourcing of remediation projects.

In 2022, the FMA is anticipated to release much-awaited remediation principles – the banks often run ahead of the rest of the financial services sector in relation to setting remediation policy, principles and frameworks, but these will form useful context and expectations for remediation. The Reserve Bank of New Zealand (RBNZ) and FMA are also expected to complete a thematic review of governance, which has relevance to remediation for how issues

are escalated, including determination of whether a problem for a customer is systemic, and whether or not a customer should be recompensed as a result of an error – complex questions leading to remediations.

The RBNZ and FMA are also expected to complete a thematic review of governance.

CCCFA remediations are industry-wide

2021 saw several Credit Contracts and Consumer Finance Act (CCCFA) related remediations hit headlines across the country. While we have seen a number of high-profile cases from the larger trading banks, KPMG’s experience across the industry suggests that almost every bank and financial institution will have elements or similar issues with CCCFA compliance that they are yet to fully face into.

Both bank and non-bank lenders continue to be challenged by historical disclosure issues, with the class action launched against ANZ and ASB high on the watchlist for 2022. In addition, 2021 saw fee justification and early repayment fee issues be remediated and settled with warnings or enforceable undertakings from the regulator.

Both bank and non-bank lenders continue to be challenged by historical disclosure issues.

KPMG has seen CCCFA remediations challenged by historic data collection and legacy systems that can make it difficult to evidence key elements of historical loans such as what disclosure was provided and when. This also makes a remediation strategy complex to design and implement, and almost always require a ‘corrective’ action, such as issuing of the relevant documentation.

Time will tell in terms of the impact of the 1 December 2021 CCCFA changes on potential future remediations, we note the industry was given a two-month extension to the original deadline as a number were struggling with the timetable. Given the need to evidence compliance to the Act and the increased focus on responsible lending, it seems likely that there is potential for further CCCFA remediations in 2022 and beyond.

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Remediations are resource intensive projects

The continued extension of closed borders and a resulting competitive domestic labour market further challenged banks in 2021, and remediation resources were not immune. Remediations draw heavily from skills across the bank, from technical skillsets such as technology expertise related to legacy systems, and data engineering and analytics skills, to product subject matter expertise, and marketing and communications capability required to deliver remediations at scale.

All banks are working on more than one remediation at a time (some are working on large programmes of remediations), which means prioritising of time and effort across both people and remediations, and challenges to expectations of timely delivery by regulators. Every day longer a remediation takes to deliver increases the cost of remediation, both in terms of operational delivery, and also in the amount of time that a customer is in error, where compensatory ‘lost use of monies’ payments may be required.

This results in a complex and high-pressure working environment, with the added challenge of a limited pool of remediation specialists in the New Zealand market to guide the banks through the process. This results in a complex and high-pressure working environment, with the added challenge of a limited pool of remediation specialists in the New Zealand market to guide the banks through the process.

Borders opening later in 2022 may help to supplement this resource pool, but banks should be wary of ongoing resource competition, and the need to carefully plan and execute remediations to balance impacts on people. Due to the length of delivery (more often in the years than months for more complex cases), remediations must be treated as marathons not sprints. Development of good institutional practices, frameworks, policies and guidelines for remediations will support the growth of remediation delivery at scale – this is particularly critical where remediation requires a new set of skills for those technical experts who land in the project. Banks may also consider implementing of RegTech or data analytics tools to support analysis required for timely and accurate remediations, to more efficiently manage particularly labour-intensive remediations, such as those requiring repeatable reviews of documents or data.
Remediations must be treated as marathons not sprints.

Learning from the Australian experience

The Australian Securities and Investment Commission (ASIC) continued to pursue regulatory action related to remediation in the Australian market in 2021. The fallout from the Hayne Royal Commission continued, and cases were brought covering banking fees, loan referral programmes, advice and superannuation activities. Each case, as they are made publicly available, provides interesting insight into the direction of regulatory expectations and the nature of remediability, which generally informs the direction of the New Zealand regulators too.

In 2022, ASIC will finalise updated remediation guidance, which is often referred to by New Zealand-based organisations, especially those with an Australian connection. We expect that the revised ASIC remediation guidance will also be helpful for New Zealand banks running remediation programmes, as Australia lifts expectations for remediation practices, and broadens from advice-specific remediation into guidance covering a broader range of remediation activity, including more quantitative remediations like we see in New Zealand.

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We will also continue to watch closely for remediation trends in Australia and the UK that may arrive in New Zealand, such as advice related remediations – these have resulted in large scale file-based reviews (including of recorded conversations and customer interactions), management of loan affordability and bad debt management, or loan repayment insurance remediations. Given the changes to the New Zealand financial advice regime, we anticipate that it’s only a matter of time until we see more advice-related remediations here.

Whether banks are seasoned remediators or the programme is new or changing, it’s clear that 2022 will continue to bring remediation challenges and that the regulators are paying close attention. Banks should consider now more than ever, investment in banking systems and processes that protect good customer outcomes and could also benefit from investing in remediation to make it efficient and sustainable, in order to complete each case quickly and accurately.

KPMG has experience working with banking clients across multiples types of remediations. If you would like to speak to us about remediation then please reach out to Malcolm or Catherine.

Malcolm Bruce
Partner – Consulting, KPMG

Malcolm leads KPMG’s Risk Consulting team specialising in risk and regulatory advisory work which supports financial services clients across a broad range of areas from operational risks to non-financial risk management issues including conduct and culture, anti-money laundering, controls and compliance.

Catherine Spencer
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Catherine is an Associate Director in our Financial Risk Management team. She comes from a data and analytics background, and brings her remediation and modelling expertise to clients in the financial services sector.