



OPEN DOOR POLICY

BUILDING PROPOSITIONS

FG22/5 : The Consumer Duty

July 2022

INTRODUCTION

There is no doubt The Consumer Duty is far reaching, affecting almost all levels of firms and detailed. It's big and it is the benchmark by which firms and future actions from the regulator will be set against.

The full text of FG22/5 is 50,373 words spread over 110 pages. This document, although large offers a summarised version of the Regulator's published document. It is designed to keep all the salient points but in a more compact, and easier to read form. Open Door Policy recommend that you also take time to read the full version from the FSA.

It is split into two areas:

- The Essentials : A compact summary, spanning just over 5,000 words (pages 3 – 23)
- The Edited Version : Giving more information in over 20,200 words (pages 24 – 84)

FG12/16 is an important document and part of a collection of publications which inform the development of several key areas within the advice process. These are the consultancy areas that Open Door Policy can provide to advisory firms and support services.

- Charging Proposition (CP)
- Centralised Investment and Retirement Proposition (CIRP)
- Consumer Duty Proposition (CDP)

If you would like to explore the consultancy service we offer to firms, visit our website and email.

Website



www.opendoorpolicy.co.uk

Email



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FG22/5 THE ESSENTIALS : CONSUMER DUTY

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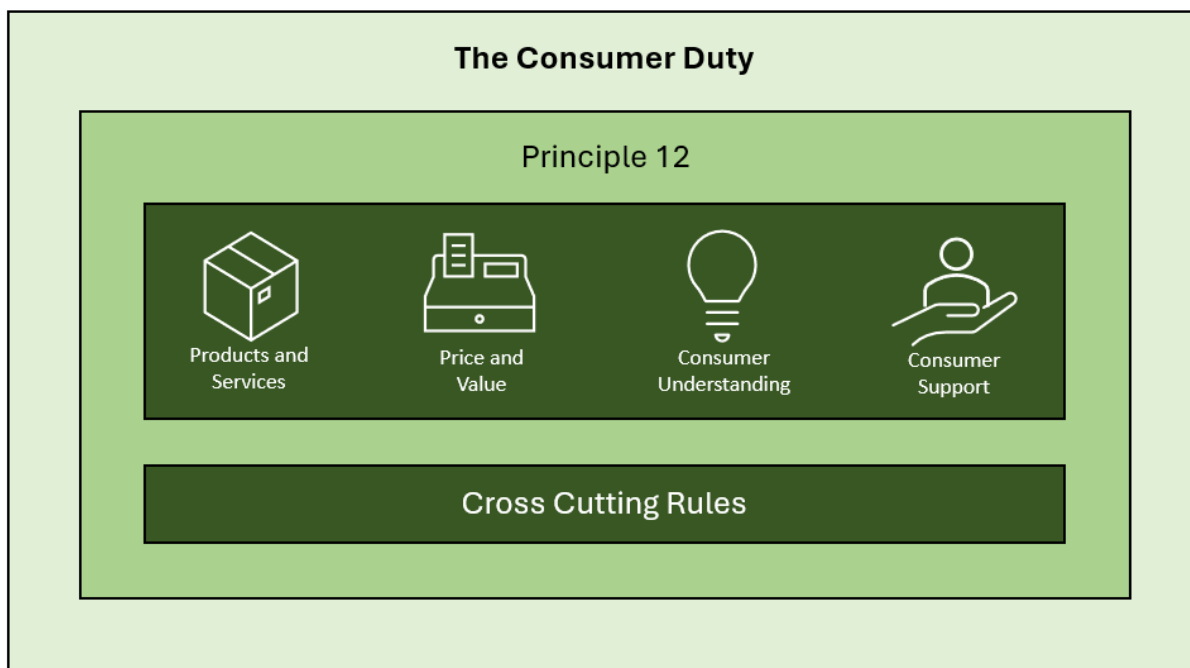
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INTRODUCTION

The Duty is comprised of the following components.

- A Consumer Principle
- The cross-cutting rules
- The four outcomes



It is underpinned by the concept of reasonableness taking into consideration:

- the nature of the product or service being offered or provided
- the characteristics of the retail customer(s)
- the firm's role in relation to the product or service
- the firm's role in the distribution chain

What is reasonable will depend on a range of factors including:

- The nature of the product or service being offered including:
 - The risk of harm to customers
 - Complexity of the product or service
 - Costs, fees and charges
- The characteristics of customers in the relevant target market, including:
 - Their resources, degree of financial capability or sophistication
 - Foreseeable characteristics of vulnerability
 - Expectations in relation to the product or service
- The firm's role in relation to the product or service, including:
 - The firm's relationship with the customers
 - Whether the firm has provided or will provide advice to the customers
 - The firm's role in the distribution chain
 - The stage in the firm's relationship with the customers

The expectations are that firms should:

- put consumers at the heart of their business and focus on delivering good outcomes
- provide products and services
 - designed to meet customers' needs
 - provide fair value help achieve financial objectives
 - do not cause them harm
- engage with customers
 - to make effective, timely and properly informed decisions
 - to take responsibility for their actions
- not to exploit
 - behavioural biases
 - lack of knowledge
 - characteristics of vulnerability
- support customers
 - in realising the benefits of products and services
 - by acting in their interests without barriers
- consistently consider
 - customer needs
 - how customers behave at every stage of the product/service lifecycle
- continuously learn from real customer outcomes
- ensure customer interests are
 - central to the firm's culture and purpose
 - embedded throughout the organisation
- monitor and customer outcomes and take action to address any risks
- ensure
 - the board (or equivalent governing body) takes responsibility for ensuring the Duty is embedded
 - senior managers are accountable for the outcomes customers are experiencing, in line with under the Senior Managers and Certification Regime (SM&CR)

Guidance on consumers in vulnerable circumstances:

- firms should ensure that vulnerable customers experience outcomes as good as those for other consumers
- The FCA expect firms to identify groups of vulnerable customers or protected characteristics who receive systematically poorer outcomes.

SCOPE OF THE CONSUMER DUTY

The Duty applies to retail customers.

The Duty applies:

- to firms dealing with prospective as well as actual customers.
- customers who are declined.
- across all of a firm's activities.

The Duty does not apply:

- to customers who elect to be treated as professional clients under COBS.
- it does apply to the process a firm uses to determine a client's status.

The Duty applies across the distribution chain, to all firms that have a material influence over or determine, retail customer outcomes. It applies to firms that can influence material aspects of, or determine retail products or services:

- design or operation
- price and value
- distribution
- preparing and approving communications
- engaging in customer support

Unless there are regulatory requirements, firms are responsible only for their own activities and do not need to oversee the actions of other firms.

THE CONSUMER PRINCIPLE

Principle 12 requires firms to ‘act to deliver good outcomes for retail customers’, and requires firms to:

- pro-actively deliver good outcomes, putting customers’ interests first
- focus on customer outcomes
- understand customer behaviour and how products and services function
- address where good outcomes are not achieved
- consistently and regularly challenge

Conduct under the Consumer Principle are explained through the cross-cutting rules which set out how firms should act to deliver good outcomes.

Firms are not expected to protect customers from risks that come from the nature of the product (such as investment risk).

The Duty does not remove consumers’ responsibility for their choices and decisions. Consumers can only take responsibility when they are able to trust that products and services are designed to meet their needs and offer fair value.

Firms are responsible for enabling and empowering consumers to take responsibility for their actions and decisions.

THE CROSS-CUTTING RULES

ACTING IN GOOD FAITH

Firms must act in good faith towards customers, characterised by honesty, fair and open dealing, and consistency with the reasonable expectations of customers.

Firms and customers have a role to play in achieving good outcomes, however there is generally an imbalance in bargaining position, knowledge and expertise so consumers can only reasonably take responsibility if firms act openly and with honesty.

Firms need to ensure that their culture supports and is conducive to their staff acting in good faith. A firm is unlikely to be able to act in good faith if it uses staff incentives, performance management or remuneration structures which are likely to cause detriment to their customers.

AVOID CAUSING FORESEEABLE HARM

Firms can cause foreseeable harm through actions and omissions. This can occur in direct relationship with a customer and through the distribution chain, even where their actions or omissions are not the sole cause. The Duty applies across the distribution chain and the extent of a firm's responsibilities will depend on its role and its influence over outcomes.

Whether harm is considered foreseeable depends on whether a prudent firm acting reasonably would be able to predict or expect the harmful result of actions or omissions.

Firms must take proactive and reactive steps to avoid causing harm through conduct, products or services where it is in a firm's control to do so. This includes ensuring that no aspect of design, terms and conditions, marketing, sale of and support for their products or services cause foreseeable harm.

ENABLE AND SUPPORT CUSTOMERS OBJECTIVES TO PURSUE THEIR FINANCIAL OBJECTIVES

Firms must act to enable and support customers to pursue their financial objectives. This rule does not remove the responsibility that consumers have for their actions. Consumers can only take responsibility where they are enabled and supported to make informed decisions in their interests through firms creating the right environment. Firms must focus on putting customers in a better position to make decisions.

THE PRODUCTS AND SERVICES OUTCOME

The products and services outcome rules are central to firms acting to deliver good outcomes, requirements include:

- ensuring the design meets the needs, characteristics and objectives of customers in the identified target market
- ensuring the intended distribution strategy is appropriate for the target market
- carrying out regular reviews to ensure the meeting of needs, characteristics and objectives of the target market

GUIDANCE FOR MANUFACTURERS

Firms are manufacturers if they create, develop, design, issue, manage, operate, carry out, or underwrite a product or service. This covers all services including:

- a distributor's sales processes
- operating an investment platform
- operating a model portfolio service
- debt counselling services and arranging transactions

The rules apply at the level of the target market, rather than services for an individual customer.

The rules would only apply at an individual customer level where a bespoke service is developed for a particular customer.

FIRMS WORKING TOGETHER TO MANUFACTURE A PRODUCT OR SERVICE

A firm would be considered a co-manufacturer where they can determine or materially influence the manufacture of a product or service, including determining essential features, main elements and the target market.

There must be a written agreement outlining respective roles and responsibilities to comply with the rules. The agreement is expected to be a confirmation of which firm is responsible for meeting different aspects of the outcome rules so in the event of a problem, it is clear which firm is accountable.

MANUFACTURERS MUST APPROVE EXISTING PRODUCTS OR SERVICES, ANY SIGNIFICANT ADAPTATION TO A PRODUCT OR SERVICE, OR ANY NEW PRODUCT OR SERVICE THEY INTRODUCE

Whether a proposed change would be significant depends on the potential impact it could have on customers. Firms should consider features added or removed from the product or service, changes to the target market and any other changes to the terms and conditions.

Firms should regularly review the approval process to ensure that it is still valid and up to date and amend the approval process where necessary.

When withdrawing a product or service, the expectation is that consideration is given to the Duty and the impact the withdrawal could have on customer outcomes.

A MANUFACTURER MUST IDENTIFY A TARGET MARKET OF CUSTOMERS FOR WHOM A PRODUCT OR SERVICE IS DESIGNED

Identification of the target market should at a sufficiently granular level, considering the characteristics, risk profile, complexity and nature of the product or service.

For simple products or services for the mass market, identifying the target market may be a straightforward exercise with a wide definition. More complex or niche products or services, the target markets should be defined in more detail.

A MANUFACTURER MUST CONSIDER THE NEEDS OF CUSTOMERS WITH CHARACTERISTICS OF VULNERABILITY IN ITS TARGET MARKET

A target market is likely always to include some customers with characteristics of vulnerability, customers who will experience vulnerability over time, as well as groups with other diverse needs.

Firms are not expected to review the needs, characteristics and objectives of individual customers, to track potential vulnerability for each customer or to monitor the diverse needs of each customer. The expectation is to:

- design products or services to take account of the needs, characteristics and objectives of all groups within the target market
- consider whether a product or service has features that could risk harm for any group of customers, including those with characteristics of vulnerability

The FCA do not expect firms to explore customers' circumstances exhaustively or to identify every customer with characteristics of vulnerability.

A MANUFACTURER MUST ENSURE ITS PRODUCTS OR SERVICES, INCLUDING EXISTING PRODUCTS AND SERVICES, ARE DESIGNED TO MEET THE TARGET MARKET'S NEEDS, CHARACTERISTICS AND OBJECTIVES

This requires firms to ensure each product or service is designed:

- to meet the identified needs, characteristics and objectives of customers in the identified target market
- so it does not adversely affect groups of customers, including vulnerability
- to avoid causing foreseeable harm

A MANUFACTURER MUST DEVELOP A DISTRIBUTION STRATEGY APPROPRIATE FOR THE TARGET MARKET

Firms should consider what distribution channels are appropriate for the target market. For example, a complicated product only sold with advice or by distributors with specific expertise.

Firms must make all appropriate information available to distributors to:

- understand the characteristics of the product or service
- understand the identified target market
- consider the needs, characteristics and objectives of any customers with characteristics of vulnerability
- identify the intended distribution strategy
- ensure the product or service will be distributed in accordance with the target market

GUIDANCE FOR DISTRIBUTORS

Firms are distributors if they offer, sell, recommend, advise on, arrange, deal, propose, or provide a product or service, including at renewal.

Distribution arrangements must:

- avoid causing and mitigate foreseeable harm
- support management of conflicts of interest
- ensure the needs, characteristics and objectives of the target market are taken into account

DISTRIBUTORS MUST UNDERSTAND THE PRODUCTS OR SERVICES THEY DISTRIBUTE

Distributors must get appropriate information from manufacturers, allowing them to:

- understand the product or service
- understand the target market
- consider vulnerability
- identify the distribution strategy
- ensure distribution in accordance with the target market

A DISTRIBUTOR SHOULD IDENTIFY OR CREATE A DISTRIBUTION STRATEGY

Distributor are required to identify the distribution strategy and ensure it will be distributed in accordance with the target market. It must be consistent with the manufacturer's strategy and target market.

DATA AND MONITORING

Manufacturers must review:

- products and services meet the target market, including vulnerability
- distribution strategy remains appropriate
- products or services have been distributed to customers in the target market

Distributors must review:

- their distribution arrangements are appropriate and up to date
- products and services have been distributed to customers in the target market

SHARING INFORMATION

Distributors must provide upon request relevant information to manufacturers:

- sales information
- information on cancellations
- information on the regular reviews of their distribution arrangements

The FCA do not expect distributors to share information without being asked.

Distributors must inform other relevant parties if they take remedial action following a review and there is a requirement to notify relevant parties if a firm identifies consumer harm.

Where manufacturers ask for information, distributors should consider what they can do to help and consider if the information they provide is adequate.

ACTIONS TO ADDRESS ISSUES IDENTIFIED IN THE REVIEW

If firms identify issues, they must take action to mitigate and prevent further harm. Where appropriate, informing other firms in the distribution chain.

WHAT THIS DOES NOT MEAN

The products and services outcome rules do not require firms to:

- Exclude particular groups (e.g. vulnerability) and whose needs or objectives a product might meet. The expectation is to take account of all groups within the target market.
- Ensure that products or services are suitable for individual customers, except where relevant (e.g. when providing advice or discretionary services).
- Mitigate harm that was not foreseeable.

THE PRICE AND VALUE OUTCOME

The specific focus of the price and value outcome is on ensuring the price the customer pays for a product or service is reasonable compared to the overall benefits. Value needs to be considered in the round and low prices do not always mean fair value.

The intention is not to set prices and it does not mean that firms are expected only to offer products and services at a low price. Products or services that cost more may well provide value if that reflects their quality and benefits.

ASSESSING VALUE

To assess value, firms must consider at least the following:

- the nature of the product or service, including the benefits that will be provided
- any limitations
- the expected total price including fees and charges over the lifetime of the relationship between customers and firms

When performing value assessments, consider a range of factors:

- The cost of manufacture and/or distribution.
- The market rates and charges for comparable products or services and whether they are a significant outlier compared to these.
- Any products in the portfolio which are priced significantly lower for a similar or better level of benefit.
- Accrued costs and/or benefits for existing or closed products.

Firms have the discretion to decide on the factors they use.

Firms must assess value at the design stage.

Firms must monitor and assess value throughout the product or service life, conducting reviews.

The FCA expects that firms can show that they have made an assessment and can demonstrate why the relationship between the price and benefits is reasonable.

BENEFITS RECEIVED BY CONSUMERS

Manufacturer firms must assess the benefits that meet the needs, characteristics and objectives of the target market.

Characteristics will determine benefits against which the price should be assessed. For example:

- a simpler product with fewer features might offer fewer benefits than one with greater coverage
- a firm offering enhanced customer support or higher quality customer interactions, will provide more benefit
- greater availability and convenience of consumer access will also be a benefit

THE PRICE CHARGED TO CONSUMERS

Consider charges over time:

- At the start and end of a contract.
- Different distribution arrangements resulting in different prices
- Charges incurred over the life
- Contingent charges (e.g. fees as a result of late payments).
- The value of each component and the overall value of the package.

The price charged may be high because it reflects the underlying costs to the firm.

Consider how a target market is likely to use the product or service and the price different groups will pay.

Non-financial costs should be considered:

- the time and effort it takes to access, assess and act to buy, amend, switch or cancel a product
- the firms' use of consumer data where consumers knowingly or unknowingly 'pay' with their data, privacy or attention

Firms should not impose unreasonable non-financial costs (e.g. unclear or misleading information making it hard for a customer to assess options).

GUIDANCE FOR DISTRIBUTORS

Distributors must ensure their own charges represent fair value.

Distributors must obtain information from manufacturers to understand the value of a product or service so they understand whether distribution arrangements would result in ceasing to provide fair value.

Distributors need to consider the cumulative impact of remuneration added by each party.

DIFFERENT OUTCOMES FOR DIFFERENT GROUPS

Charging different prices to different groups of consumers is not necessarily in breach of the Duty. The price and value outcome do not require firms to charge all customers the same amount.

Differential pricing between new and existing customers (clear, transparent up-front discounts for either set of customers) is not prohibited by the Duty.

When charging different prices to separate groups, consider whether the price charged provides fair value for customers in each group.

Servicing fees can be charged as a percentage so some consumers may pay substantially larger fees than others, even though the costs of providing the service and the benefits consumers receive may be similar.

DATA AND MONITORING

Firms must review value throughout life, considering how regularly to perform ongoing value assessments. The FCA expect firms to be able to clearly demonstrate how any product or service provides fair value.

Firms should record factors considered in their value assessments and should be able to provide evidence if requested.

Firms must take action where their review identifies not fair value.

WHAT THIS DOES NOT MEAN

The price and value outcome rules do not:

- Operate as a price cap.
- Prevent firms with an innovative product charge more for it. The price and value outcome should not hinder innovation.
- Stop firms having different prices for different groups or prevent cross subsidies. Firms should be able to justify the fair value.
- Require firms to point consumers to a potentially better or cheaper product or service offered elsewhere.

THE CONSUMER UNDERSTANDING OUTCOME

Consumers can only take responsibility when communications enable them to understand features and risks, and the implications of decisions.

Communication should be, fair and not misleading, requiring firms to:

- Ensure communications
 - meet customer needs
 - are likely to be understood
- tailor communication to the customers intended to receive them
- when interacting directly, tailor communications and ask if it is understood and if there are any further questions
- test, monitor and adapt communications

EQUIPPING CUSTOMERS TO MAKE EFFECTIVE DECISIONS

Firms should 'put themselves in their customers' shoes'.

Firms should act in good faith:

- and avoid communications that exploits consumers' information asymmetries and behavioural biases.
- and produce communications that provide a fair summary of the risks and benefits.

Firms must act in good faith and ensure options are presented in a clear and fair way and ensure that choice architecture isn't designed to influence consumers.

The FCA expect firms to adopt good practices, involving

- Layering
- Engaging
- Relevant
- Simple
- Well timed

THE COMMUNICATION CHANNEL USED

Communications should be effective regardless of the channel of communication used and digital communications should be compatible with different mediums. Regardless of the channel used for communication, the information provided should enable the assessment of options.

TESTING COMMUNICATIONS

Firms should test communications. Firms will have different capabilities depending on size, resources and activities so their approach will vary. Firms should take into account:

- the purpose
- the context, its timing and frequency
- the needs and vulnerabilities of recipients
- those less likely to understand the communication
- the scope for harm if misunderstood or overlooked
- is it more important to communicate urgently rather than testing

Testing should be carried out with an audience that is representative of the intended recipients.

Where a distributor uses manufacturer communications, therefore not carrying out testing, it should provide relevant feedback.

Firms should satisfy themselves that communications are likely to be understood.

Firms should embed processes of continuous improvement based on evidence of customer understanding.

DATA AND MONITORING

Firms should monitor communications. The expectation is that:

- firms consider the impact communications have
- monitor whether this is the case in practice
- carry out further investigation where this is not
- identify and remedy any issues

Firms should

- collect and make use of relevant MI to monitor the impact of communications.
- monitor the impact of communications during customer journeys.
- monitor events or changes that impact the content of communications, ensuring they remain relevant and up to date.

Where a firm identifies or becomes aware of a communication by another firm that is not delivering good outcomes, it must promptly notify the firm. Firms should also notify the FCA.

WHAT THIS DOES NOT MEAN

The rules do not require firms to:

- Tailor communications to meet the needs of individual customers.
- Always communicate via all or a particular channel.
- Test all communications.
- Verify that all customers have understood. Firms should take steps to ensure communications are likely to be understood.

THE CONSUMER SUPPORT OUTCOME

The FCA expects firms to provide support that meet customer needs, enabling them to:

- realise the benefits of products and services
- pursue financial objectives
- act in their own interests

The outcome require firms to:

- design and deliver support that meets customer needs including vulnerability
- ensure that customers can use their products as anticipated
- ensure appropriate friction in customer journeys to mitigate the risk of harm
- ensure customers do not face unreasonable barriers
- monitor the quality of the support
- look for evidence of areas falling short, and act promptly
- ensuring groups of customers are not disadvantaged including vulnerability

There is a close relationship between consumer support and consumer understanding.

- Consumer understanding: communicate in a way that equips customers to make effective, timely and properly informed decisions.
- Consumer support: enable customers to act on decisions without facing unreasonable barriers.

Firms should make sure that support is effective, regardless of the channel used.

PROVIDING SUPPORT THAT MEETS CUSTOMER NEEDS

Processes should avoid causing harm such as:

- consistently poor or excessively slow service
- channels of support not meeting customer needs
- under-resourced helplines
- phone systems, menus or webchats that are difficult to navigate
- badly designed websites making it difficult to find key information
- uncertainty around how or where to access support
- poor hand-off processes

CHANNELS OF SUPPORT

Firms must ensure support channels meet customer needs, including non-standard issues and vulnerability.

Firms should

- monitor the support provided
- take feedback into account
- look for signs that the channel offering is not sufficient support
- take steps to address any shortfalls

APPROPRIATE FRICTION AND UNREASONABLE BARRIERS

Friction points or nudges can help to mitigate the risk of consumer harm and support good outcomes.

What amounts to friction or barriers will depend on circumstances. Firms are expected to apply judgement and distinguish between positive and harmful frictions or nudges (sludge practices).

Friction points should be monitored, it is expected that firms are able to justify and evidence the benefits of additional steps.

SLUDGE PRACTICES

There can be commercial incentives to create friction points (sludge) that deter their customers from taking action and firms can fail to give attention and support where customers seek to take action. This is not consistent with the Duty.

While prompts or incentives to retain a customer are acceptable, they should not unreasonably impact the ease with which a customer could switch or exit.

UNREASONABLE ADDITIONAL COSTS

Support should not lead to a greater than expected up-front cost, not impose unreasonable additional costs.

Terms and conditions can include provisions relating to early termination, but firms should not impose unreasonable exit fees. Provision should be clearly drawn to customers' attention in line with consumer understanding.

Firms should ensure post-sale support is as good as pre-sale.

Firms should have reasonable processes in place to deal with strain on their operations.

Different levels of inconvenience or delay may be reasonable in different circumstances, for example a delay in amending a standing order will differ from disabling a stolen credit card.

CUSTOMER REPRESENTATIVES

Where a person is authorised to assist in the conduct of the customer's affairs (such as power of attorney), firms should provide the same level of support to that person.

OUTSOURCING

Firms are responsible for their own activities, where a firm is outsourcing the firm is responsible and accountable for all the regulatory responsibilities. Firms cannot delegate any part of this responsibility to a third party.

DATA AND MONITORING

Firms should regularly monitor. The FCA expect firms to design and deliver consumer support that meets this outcome and monitor that they continue to do so.

Firms should consider customer behaviour and feedback to identify unreasonable barriers.

Where support is provided by a third party the firm should have systems and processes in place to monitor and to take appropriate action if not fit for purpose.

WHAT THIS DOES NOT MEAN

The outcome does not require:

- providing support to customers via multiple different channels.
- providing support through a particular channel.
- a guarantee that support will never experience issues or delay.
- streamlining customer journeys to such an extent that they create the risk of consumer harm or remove steps that provide customer benefits.

CULTURE, GOVERNANCE AND ACCOUNTABILITY

The Duty sets a higher expectation for the standard of customer care requiring shift in culture and behaviour. Customer interests should be central to the culture and purpose and embedded throughout an organisation.

Firms are to ensure that strategies, governance, leadership, and people policies lead to good outcomes.

A firm's board, or equivalent governing body, should review and approve an assessment of whether the firm is delivering good outcomes at least annually.

WHAT THIS MEANS FOR FIRMS

There are four drivers of culture, and delivering good outcomes is central to each.

- Purpose: should be consistent with the Duty. Staff should understand how the purpose is relevant to good outcomes.
- Leadership: leaders should be competent and accountable and commit to delivering good outcomes.
- People: reflected in the way in which people are managed and rewarded. They should be trained to be able to deliver good outcomes.
- Governance: controls and key processes should be set up to enable identification when a firm is not delivering good outcomes. There should be a strategy to understand and tackle root causes and manage and mitigate poor outcomes.

GOVERNANCE AND ACCOUNTABILITY

The Duty requires firms to deliver good outcomes, reflected in strategies, governance, leadership and people policies.

Customer outcomes should be a central focus for risk and internal audit processes.

Firms must ensure incentives, performance management and remuneration are designed to be consistent with good outcomes.

The board or equivalent governing body is responsible for ensuring the Duty is properly embedded and the FCA will hold senior managers accountable through SM&CR.

The board should ensure the Duty is being considered in all relevant contexts. There should be a champion at board level who (along with the Chair and CEO) ensures that the Duty is being discussed regularly and raised in all relevant discussions.

The champion should be an Independent Non-Executive Director (NED), where possible. This expectation applies reasonably, so it would not be expected that the same level of formality is in smaller firms.

BOARD REPORT

The board should review and approve an assessment on delivering good outcomes at least annually, including:

- the results of the monitoring undertaken
- evidence of poor outcomes, an evaluation of the impact and the root cause
- an overview of the actions taken
- how the firm's future business strategy is acting to deliver good outcomes

Before signing off the board should agree actions required to address identified risks or poor outcomes and agree any changes to the firm's future business strategy if required.

This assessment will be part of the evidence the FCA will use to assess a firm's compliance with the Duty. The FCA expect to be provided on request with the report and the MI that sits behind it.

SENIOR MANAGERS AND CERTIFICATION REGIME

The FCA expects the focus delivering good outcomes and this should be supported by individual accountability and conduct resulting from the SM&CR.

Every senior manager should be clear about what they are responsible and accountable for, and how they are ensuring that the firm complies on an ongoing basis. Senior managers should expect to be asked about the role that they will play in delivering good outcomes when seeking approval or engaging with the Regulator.

The individual conduct rules set minimum standards of behaviour and apply to almost all employees except for ancillary staff. This conduct rule applies to the extent that it is reasonable and proportionate: the scope of a person's job and their seniority may affect the scope of their obligations under the rule. The more senior a person is and the more relevant their role is to the Duty, the more we expect from them in delivering good outcomes for customers.

MONITORING OUTCOMES

A key part of the Duty is assessing, testing, understanding and able to evidence the outcomes. Firms have to be able to identify poor outcomes and take action to rectify causes of poor outcomes, continuously learning from the focus and awareness that customers experience in practice.

Firms can expect to be asked to demonstrate how their business models, the actions they have taken, and their culture are focused on good outcomes. The rules require firms to:

- monitor and regularly review outcomes
- identify where customers or groups of customers are not getting good outcomes and understand why
- have processes in place to adapt and change products and services, or policies and practices, to address any risks or issues identified and stop it occurring again in the future

WHAT THIS MEANS FOR FIRMS

Identify relevant sources of data, through monitoring to:

- identify and manage risks
- spot poor outcomes and understand the root cause
- have processes in place to adapt and change products and services, or policies and practices, to address risks
- demonstrate how they have identified and addressed issues

WHAT FIRMS SHOULD MONITOR

Firms will need

- to collect information and be able to provide evidence of monitoring and assessment and any resulting action, on request.
- to use their judgement to identify relevant sources of data.
- to produce and regularly review MI on outcomes.
- to develop a strategy to gather information and data, the expectation is that firms continually review and develop their frameworks.

Some monitoring will be more frequent than others. The expectation is that firms gather and review customer support data, transaction data and complaints data on an ongoing basis whereas file reviews, sludge audits and focus groups are more likely to be carried out at regular intervals or on an ad hoc basis.

There is no prescribed format for the way in which firms evidence their monitoring of customer outcomes, but the FCA expect firms to maintain records so that they can be provided on request.

Firms should maintain records of issues identified and the action taken to address those issues. Firms need to be able to explain how they reached a decision on the right intervention, and to demonstrate how the intervention has delivered better consumer outcomes (and, if not, what they have done further to address the issue).

FINALISED GUIDANCE (EDITED)

**FG22/5 FINAL NON-HANDBOOK GUIDANCE FOR FIRMS ON THE
CONSUMER DUTY**

JULY 2022

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1 INTRODUCTION

The Duty is comprised of the following components.

- A Consumer Principle
- The cross-cutting rules
- The four outcomes

It is underpinned by the concept of reasonableness and must be interpreted in line with the standard that could reasonably be expected. What is interpreted as reasonable takes into consideration:

- the nature of the product or service being offered or provided
- the characteristics of the retail customer(s)
- the firm's role in relation to the product or service
- the firm's role in the distribution chain

All firms have the same responsibility to act to deliver good outcomes for retail customers, but there will clearly be differences in the capabilities of a firm depending on its size and activities.

Expectations. Firms should:

- put consumers at the heart of their business and focus on delivering good outcomes
- provide products and services
 - designed to meet customers' needs
 - provide fair value help achieve financial objectives
 - do not cause them harm
- engage with customers
 - to make effective, timely and properly informed decisions
 - to take responsibility for their actions
- not to exploit
 - behavioural biases
 - lack of knowledge
 - characteristics of vulnerability
- support customers
 - in realising the benefits of products and services
 - by acting in their interests without barriers
- consistently consider
 - customer needs
 - how customers behave at every stage of the product/service lifecycle
- continuously learn from real customer outcomes
- ensure customer interests are
 - central to the firm's culture and purpose
 - embedded throughout the organisation
- monitor and customer outcomes and take action to address any risks
- ensure
 - the board (or equivalent governing body) takes responsibility for ensuring the Duty is embedded
 - senior managers are accountable for the outcomes customers are experiencing, in line with under the Senior Managers and Certification Regime (SM&CR)

Guidance definitions:

- must: action is required by a Principle or rule
- should: firms ought to consider a course of action to comply with a Principle or rule, but this does not necessarily mean following a detailed or prescribed course of action
- may or could: an action is one of several ways of complying with a Principle or rule

Guidance on consumers in vulnerable circumstances:

- Fair treatment of vulnerable customers (FG 21/1) sets out what firms should do to ensure that vulnerable customers experience outcomes as good as those for other consumers, FG 21/1 remains relevant for firms.
- Consumers in vulnerable circumstances may have additional needs or be at greater risk of harm if things go wrong. The Duty makes explicit reference to firms paying attention to the needs of customers with characteristics of vulnerability.
- The FCA expect firms to identify groups of customers (e.g. vulnerable customers or customers who share protected characteristics) receive systematically poorer outcomes. This may indicate that the firm is not meeting the Duty for those groups.

2 SCOPE OF THE CONSUMER DUTY

OVERVIEW

The Duty applies to the regulated activities and ancillary activities of firms authorised under

- the Financial Services and Markets Act 2000 (FSMA)
- the Payment Services Regulations 2017 (PSRs)
- E-money Regulations 2011 (EMRs)

RETAIL CUSTOMER SCOPE

The Duty applies to retail customers.

- For consumer credit:
 - all regulated credit-related activities.
- For deposit-taking activities:
 - consumers
 - micro-enterprises
 - charities with a turnover of less than £1 million and a natural person acting in a capacity as a trustee if acting for purposes outside their trade, business or profession (in line with the 'banking customer' test in the Banking Conduct of Business Sourcebook (BCOBS)).
- For insurance:
 - the scope follows the position in the Insurance Conduct of Business Sourcebook (ICOBS).
 - The Duty does not apply to reinsurance, contracts of large risk sold to commercial customers or other contracts of large risk where the risk is located outside the UK.
 - Nor does it apply to activities connected to the distribution of group insurance policies or the extension of these policies to new members.
- For investments
 - business conducted with a customer who is not a professional client (as set out in COBS).
- For mortgages
 - follows the position in the Mortgage Conduct Business Sourcebook (MCOB), it therefore applies to all regulated mortgage contracts.
 - where the owner of a mortgage book is unregulated and the regulated party is an administrator, the Duty would apply in an appropriate and proportionate manner to the administrator's function.
- For payment service or e-money providers:
 - business conducted with consumers, micro-enterprises and small charities (where the definitions of these terms are the same as for deposit takers).

The Duty applies:

- to firms dealing with prospective as well as actual customers.
- customers who are declined.
- across all of a firm's activities.

The Duty does not apply:

- to customers who elect to be treated as professional clients under COBS.
- it does apply to the process a firm uses to determine a client's status.

A firm encouraging a customer to seek a 'professional client' classification to avoid providing consumer protection would breach the Duty.

If a firm is aware that a customer has been incorrectly classified by another firm earlier in the distribution chain, including an unauthorised firm, it should reclassify the customer and provide the correct level of consumer protection.

HOW THE DUTY APPLIES ACROSS THE DISTRIBUTION CHAIN

The Duty applies across the distribution chain, to all firms that have a material influence over or determine, retail customer outcomes. It applies to firms that can influence material aspects of, or determine retail products or services:

- design or operation
- price and value
- distribution
- preparing and approving communications
- engaging in customer support

The FCA would generally expect firms with a decision making role for one or more of the four customer outcomes to have greatest responsibility.

Whether a material influence exists depends on the extent to which a firm is in practice exercising discretion over customer outcomes.

A material influence would not include a firm whose role is limited to:

- Operating within a mandate determined by another firm in the chain. This could include a portfolio manager whose role is limited to managing assets under a mandate determined by a professional client.
- Providing factual information to support the work of another firm in the chain.
- Providing IT systems.

The extent of a firm's responsibilities depends on the firm's role and the extent of its influence over retail customer outcomes. The level of responsibility depends on what the firm's actual role and influence is in practice, rather than just what is set out in contractual terms between firms in the chain.

Firms that can determine or materially influence outcomes need to consider the end customer whether or not they are a direct client. This includes beneficiaries of trust-based schemes where firm's client may be the trustee.

The Duty imposes new obligations under ‘agent as client’ rules. Firms must consider if there are retail customers at the end of the distribution chain and if they can determine or materially influence outcomes for them. If this is the case, firms must comply with the Duty.

A firm that is remote from the retail customer, with no direct customer relationship, may have more limited obligations. The firm should, where reasonably practicable, comply with the Duty within the context of its role.

A firm that has more of a key role (e.g. determining charges or terms and conditions) would have more significant obligations. For example, if a firm works with a fund manager to design a fund and has a decision-making role on elements such as the target market or investment strategy, it would be regarded as a co-manufacturer under the products and services outcome and the price and value outcome.

Example: A fund manager, provider and IFA involved in the manufacture and distribution of a product and who can determine or materially influence customer outcomes. Each firm has a responsibility commensurate to the degree to which it can determine or materially influence retail customer outcomes.

- The level of responsibility relates to what their real role is, rather than just what is set out in contractual terms.
- All firms must act to deliver good outcomes and comply with the cross-cutting rules.
- Each helps to avoid causing foreseeable harm and ensure helping the customer realise their financial objectives.
- Each must act in good faith in its design and operation of the relevant products and services and in any interactions with the customer.
- Depending on their role, some or all of the four outcomes will also be relevant.
 - The fund manager: Must develop a fund to meet the needs, characteristics and objectives of the target market. It must develop an appropriate distribution strategy and set charges to provide fair value. The firm must communicate in a way that customers can understand and offer appropriate customer support standards. It must review the fund regularly to assess whether it meets the needs of the target market, offers fair value and has been distributed appropriately.
 - The platform provider: Must develop the platform, including decisions over the range of investments it provides, to meet the needs and characteristics of the target market. It must set charges to ensure that its service provides fair value. As a distributor of the fund, the provider must obtain sufficient information to understand the value assessment and whether any remuneration it receives would result in the product no longer providing fair value. It must design an appropriate distribution strategy, provide appropriate customer service standards and regularly monitor how the platform is used in practice.
 - The financial adviser: The firm must consider how it meets the Duty in the design and delivery of its initial and ongoing service. This includes considering the needs of the target market, following the consumer understanding rules for its communications and considering if its charges provide fair value. The firm will need to consider both the target market for the design of its service and the individual customers it advises.
- The fund manager and platform provider are more likely to have a focus on the target market rather than on individual customers.

- The adviser can often also have the clearest oversight of the customer's overall position and an overview of the total proposition. It should consider the overall outcomes being delivered for the customer. This should include:
 - whether the overall cost to the customer, including all product and distribution charges in the distribution chain, provides fair value.
 - if the customer is given an appropriate level of information about the overall proposition, in a timely and understandable format, to enable the customer to make effective decisions.

Due diligence and obtaining information from other firms to meet the Duty

Where a firm works with others in a distribution chain and conducts due diligence on those other firms, it should consider the Duty as part of that due diligence.

Distribution chains can be long and complicated and can cause issues particularly for manufacturer firms obtaining relevant information about customer outcomes. Some manufacturers do not have full visibility of the distribution chain or the end customers. Firms are expected to do what is reasonable. For example:

- It may be that a manufacturer has some information or no information about the end customers. Some fund managers selling via platforms will not know if other distributors are involved or if their funds are being sold outside the target market. In this type of scenario, firms should consider what is reasonable in the circumstances to gather information. It may be possible to
 - send a periodic survey to distributors
 - ask the next firm in the chain for relevant information, including the identity of other firms in the chain.
- If other firms do not provide that information, the manufacturer firm should use any information it does have. But, where there is a complete lack of information and no ability to find it, manufacturers may not need to take any further action.
- Distributor firms are required to share information to support manufacturers when reviewing products or services.
- Where firms do not comply with this requirement, they may therefore be in breach of the Duty.
- Firms must notify the FCA where they become aware that another firm in the distribution chain may not be complying with the Duty.
- Firms considering working with unregulated entities should consider the impact such firms could have on outcomes.
- Regulated firms should consider whether including an unregulated entity in the distribution chain leads to too great a risk of poor outcomes.
- When working with an unregulated entity, firms should consider introducing additional steps to guard against risks, for example further due diligence or monitoring.

Liability

Unless there are regulatory requirements, firms are responsible only for their own activities and do not need to oversee the actions of other firms.

Situations in which firms need to consider actions by other firms include:

- Outsourcing activities to third parties, the firm remains responsible for compliance. The Duty should also be considered, for instance outsourcing customer servicing could have a negative impact for customers.
- On the use of third-party tools, in FG11/05 firms remain responsible for meeting those rules. Firms should use a tool only where they are satisfied that it provides outputs that are appropriate and fit for purpose.
- Under the products and services outcome and the price and value outcome firms must have regard to the wider distribution chain. For instance, a manufacturer should consider how it expects a product to be sold and regularly monitor the product and its distribution over time.
- Principal firms are required to oversee the actions of appointed representatives and should check they comply with the Duty when doing so.
- Principal payments and e-money firms are responsible for the actions of their agents and distributors. Appropriate systems and controls should be in place to oversee activities effectively.

Where firms have multiple legal entities in a group structure, the FCA do not expect firms to duplicate work that could be better handled centrally.

Dealing with disagreements among firms in the distribution chain

There may be situations in which firms disagree on the best way to provide good customer outcomes. A firm identifying consumer harm elsewhere in the chain

- must raise the concerns with other relevant parties
- must notify the FCA where it becomes aware that another firm may not be complying with the Duty

Regarding co-manufacturing a written agreement outlining respective roles and responsibilities must be in place. It should help clarify which firm is responsible for deciding a particular issue.

Application to the wholesale market

The Duty applies to all firms and could include firms in the wholesale market, even if they do not have a direct relationship with retail customers.

- An investment bank that designs a structured product for sale to retail customers would be subject to the Duty.
- An investment bank providing wholesale instruments that a third-party firm independently uses as component parts of a retail product would not.
- A fund manager of an institutional investor-only fund would not be subject to the Duty if a third party, without its involvement, invests into the institutional fund via a retail fund of funds.

Certain wholesale activities are specifically excluded from the Duty:

- Manufacture of products or services only for wholesale purposes, where they meet the conditions in the 'retail market business' definition.
- Activities relating to non-retail financial instruments.
- Market activities for certain financial instruments meeting the criteria in the 'retail market business' definition.
- Activities relating to insurance contracts of large risks for commercial customers or where the risk is located outside the UK.
- Activities connected to the distribution of group insurance policies or the extension of these policies to new members.
- The regulated activity of administering a benchmark, any ancillary activity to that activity and any activities undertaken by a benchmark administrator for the purpose of complying with the Benchmarks Regulation.
- Credit rating agencies are not within scope of the Duty.
- Recognised investment exchanges, recognised clearing houses, settlement systems and trade repositories would not be subject to the Duty where there are not authorised persons.

Trading venues run by authorised persons, however, would be subject to the Duty unless another exemption applies, as set out above.

APPLICATION OUTSIDE THE UK

Only firms conducting regulated activities in the UK are subject to the Duty. Firms in Gibraltar selling products or services to UK retail customers are subject to the Duty.

HOW THIS APPLIES TO UNREGULATED ACTIVITIES

The Duty will not apply to unregulated business. However, the Duty applies to authorised firms conducting ancillary activities. These are unregulated activities in connection with regulated activities or in connection with the provision of payment services or the issuing of electronic money.

3 APPLICATION TO PRODUCTS AND SERVICES SOLD BEFORE THE CONSUMER DUTY COMES INTO FORCE

OVERVIEW

The Duty does not apply to past actions by firms, they are subject to the rules that applied at the time. The Duty does apply on a forward-looking basis, to:

- existing products and services
- closed book products and services

REVIEW OF EXISTING PRODUCTS AND SERVICES

Firms need to comply with the Duty in full for existing products or services. If firms identify issues with an existing product or service, these need to be addressed before they can sell it to new customers. Firms will also need to consider how to address any harm to customers with existing contracts.

REVIEW OF CLOSED PRODUCTS AND SERVICES

The Duty applies in full to closed products and services and firms are expected to review them, including:

- Reviewing the product or service on an ongoing basis under the cross-cutting rules, considering if any aspect could lead to foreseeable harm or frustrate customers pursuing their financial objectives. Appropriate action should be taken to mitigate harm.
- Ensuring products continue to offer fair value.
- Ensuring they meet the consumer understanding and consumer support outcomes.

APPLICATION OF THE DUTY TO FIRMS THAT PURCHASE A PRODUCT OR SERVICE BOOK

Firms considering the sale of a product or service book must provide relevant information to the firm buying the book to help it comply with the Duty. This information should enable the purchaser to:

- understand the product or service design and the basis on which it has been assessed as providing fair value
- enable the purchaser to monitor on an ongoing basis if the product or service meets the needs of the target market and offers fair value

Firms should comply with data protection and competition laws when sharing this information.

Purchasing firms must gather information from the selling firm to understand the product or service design and value, such that it can meet the rules going forward. The information must provide sufficient detail to allow the firm to conduct ongoing reviews of the product or service.

4 THE CONSUMER PRINCIPLE

OVERVIEW

Principle 12 requires firms to 'act to deliver good outcomes for retail customers. It sets a higher standard than:

- Principle 6: Paying due regard to the interests of its customers and treating them fairly.
- Principle 7: Paying due regard to information needs and communicating in a way which is clear, fair and not misleading.

Principle 12 imposes obligations on firms towards customers irrespective of whether the customer is a direct client of the firm.

WHAT THIS MEANS FOR FIRMS

Principle 12 focuses on customer outcomes, and requires firms to:

- pro-actively deliver good outcomes and put customers' interests at the heart of their activities
- focus on customer outcomes and act in a way that reflects how consumers actually behave and transact in the real world.
- have sufficient understanding of customer behaviour and how products and services function to demonstrate that the outcomes are being achieved
- to address where good outcomes are not achieved
- consistently and regularly challenge to ensure actions deliver good outcomes

Firms should deliver good outcomes in each business function and put customer interests at the heart of the business model and culture.

Conduct under the Consumer Principle are explained through the cross-cutting rules which set out how firms should act to deliver good outcomes.

The Principle does not mean that individual customers will always get good outcomes or will always be protected from poor outcomes. It does not impose an open-ended duty going beyond the scope of the firm's role and its ability to determine or influence outcomes. For instance, firms are not expected to protect customers from risks that come from the nature of the product (such as investment risk).

REASONABLE APPLICATION OF THE DUTY

The Duty is underpinned by the concept of reasonableness which is an objective test. The obligations will be interpreted in accordance with the expected standards of a prudent firm, taking appropriate account of the needs and characteristics of customers.

This includes the nature and scale of characteristics of vulnerability and the impact on the needs of customers.

Firms are expected to focus on customer outcomes that may result from their actions considering what a firm could be expected to have known at the relevant time.

What is reasonable will depend on a range of factors including:

- The nature of the product or service being offered including:
 - The risk of harm to customers
 - Complexity of the product or service
 - Costs, fees and charges
- The characteristics of customers in the relevant target market, including:
 - Their resources, degree of financial capability or sophistication
 - Foreseeable characteristics of vulnerability
 - Expectations in relation to the product or service
- The firm's role in relation to the product or service, including:
 - The firm's relationship with the customers
 - Whether the firm has provided or will provide advice to the customers
 - The firm's role in the distribution chain
 - The stage in the firm's relationship with the customers

CONSUMER AND FIRM RESPONSIBILITY

The Duty does not remove consumers' responsibility for their choices and decisions. Consumers can only take responsibility when they are able to trust that products and services are designed to meet their needs and offer fair value. They need help to understand and have confidence that firms will act in a way that helps make decisions in line with financial objectives.

Firms are responsible for enabling and empowering consumers to take responsibility for their actions and decisions.

Some consumers low levels of financial capability, financial resilience or confidence in managing finances, coupled with behavioural biases, means regulators cannot set a universal requirement of consumer responsibility. Firms must understand and take account of behavioural biases and the impact characteristics of vulnerability can have on consumer needs and decisions.

5 THE CROSS-CUTTING RULES

OVERVIEW

The cross-cutting rules set out how firms should act to deliver good outcomes. They require firms to:

- act in good faith
- avoid causing foreseeable harm
- enable and support the pursuit of financial objectives

RELATIONSHIP BETWEEN THE CROSS-CUTTING RULES, AND WITH THE CONSUMER PRINCIPLE

The cross-cutting rules articulate the standards of conduct expected under Principle 12, setting out how firms should act to deliver good outcomes for customers. The cross-cutting rules work together as a package, and poor conduct will often breach more than one.

RELATIONSHIP BETWEEN THE CROSS-OUTCOMES CUTTING RULES AND THE FOUR OUTCOMES

The cross-cutting rules inform and are supported by the four outcomes which set out more detailed rules, including:

- Firms acting in good faith in customer interactions and communications is essential when complying with the consumer understanding outcome and the consumer support outcome.
- Firms avoid causing foreseeable harm when designing and pricing products and services.
- Effective and understandable communications and effective consumer support are essential in the pursuit of financial objectives by creating the right environment.
- The cross-cutting rules help firms interpret the four outcomes. For example, one way for a firm to know a product does not offer fair value, would be if it were to lead to foreseeable harm.
- The cross-cutting rules help define the overarching standards of conduct firms should follow in areas not explicitly dealt with through the four outcomes, so compliance with the four outcomes would not be exhaustive of what the Principle or cross-cutting rules require.

ACTING IN GOOD FAITH

Firms must act in good faith towards customers, characterised by honesty, fair and open dealing, and consistency with the reasonable expectations of customers.

Firms and customers have a role to play in achieving good outcomes, however there is generally an imbalance in bargaining position, knowledge and expertise so consumers can only reasonably take responsibility if firms act openly and with honesty.

Acting in good faith is a key part in which customers can pursue financial objectives and avoid causing foreseeable harm. A firm would not be acting in good faith where it fails to take account of customers' interests, for example:

- in the way it designs a product and presents information
- seeking to exploit consumers' lack of knowledge and understanding
- seeking to exploit customers' behavioural biases, such as
 - being influenced by the way things are presented
 - overvaluing immediate impacts
 - undervaluing future impacts
 - attaching less weight to effects that are further off, such as termination or renewal fees

Firms need to ensure that their culture supports and is conducive to their staff acting in good faith. A firm is unlikely to be able to act in good faith if it uses staff incentives, performance management or remuneration structures which are likely to cause detriment to their customers.

WHEN FIRMS SHOULD CONSIDER THE REQUIREMENT

Firms must act in good faith at all stages of the customer journey and during the whole lifecycle of a product or service, focussing on groups of customers and when it is interacting with individual customers.

Firms can act in good faith by designing products or services to support objectives and need and offer fair value.

Firms can act in good faith to support understanding by presenting information in an even-handed way that properly explains benefits and risks.

If a firm identifies that it has caused customers harm, either through action or inaction, the firm must act in good faith by taking appropriate action to rectify the situation including considering whether remedial action, such as redress, is appropriate. Firms should pay redress promptly when it is due and considering relevant decisions of the Financial Ombudsman Service.

The expectation is that firms take existing decisions and guidance from the ombudsman into account and apply the same approach were cases present similar facts. Where the ombudsman service has made a decision a firm would be acting in bad faith if it delays paying redress due but instead waits for the ombudsman service to make a further decision.

What it does not require

Neither the requirement to act in good faith nor the Duty overall creates a fiduciary relationship where it does not already otherwise exist between the firm and the customer.

The requirement for firms to take action to remedy harm does not require a firm to remedy the effects of risks inherent in a product that the firm reasonably believed that the customer was aware of, understood and accepted.

AVOID CAUSING FORESEEABLE HARM

Firms must avoid causing foreseeable harm. Firms can cause foreseeable harm through actions and omissions. This can occur in direct relationship with a customer and through the distribution chain, even where their actions or omissions are not the sole cause. The Duty applies across the distribution chain and the extent of a firm's responsibilities will depend on its role and its influence over outcomes.

Whether harm is considered foreseeable depends on whether a prudent firm acting reasonably would be able to predict or expect the harmful result of actions or omissions.

Firms must take proactive and reactive steps to avoid causing harm through conduct, products or services where it is in a firm's control to do so. This includes ensuring that no aspect of design, terms and conditions, marketing, sale of and support for their products or services cause foreseeable harm.

Examples of foreseeable harm:

- consumers being unable to cancel because processes are unclear or difficult to navigate
- products and services performing poorly where they have not been appropriately tested
- products and services causing harm after being distributed widely to customers for whom they were not designed
- overly high charges on a product because customers do not understand the product charging structure or how it impacts on value
- total charge likely to outweigh the expected above-cash returns from an investments
- vulnerable consumers unable to access and use a product or service properly because the customer support is not accessible to them
- becoming victims to scams relating to financial products due to a firm's inadequate systems to detect/prevent
- difficult to switch to a better product or different provider because the process is too onerous or unclear

Firms are only responsible for addressing the risk of harm when it is reasonably foreseeable at the time, considering what a firm knows, or could reasonably be expected to have known. However, it is expected that all firms to collect enough information to be able to act to avoid causing foreseeable harm.

Firms should proactively consider how consumers' behavioural biases, such as inertia, might lead their products or services to cause foreseeable harm.

Firms' obligation to avoid foreseeable harm applies throughout the customer journey and lifecycle of the product or service.

Firms should identify the potential for harm if their products and services change or their understanding about the impact on customers changes and take appropriate action.

Regular reviews provide an opportunity to identify any new or emerging harms. Firms will also become aware of sources of harms (for example through consumer complaints, management information (MI), press reporting, and FCA supervisory focus and communications such as 'Dear CEO' letters).

Where harm was not foreseeable at the outset but became apparent later, it is expected that firms will take appropriate action.

How the firm's relationship with the customer affects the requirement

With an ongoing customer relationship the firm needs to avoid causing foreseeable harm throughout the product's lifecycle.

If the firm is only involved at a point in time, is no longer providing that product or service to the customer and does not have an ongoing relationship it does not need to act to avoid harm that was not foreseeable at the point it provided the product or service.

When firms should consider the requirement

Firms should act to avoid causing foreseeable harm at all stages of the customer journey, for groups of customers or when interacting with individuals.

At product or service design by:

- ensuring products and services are designed to meet the needs of their target market, distributed to their target market and checking that they remain consistent with the needs, characteristics and objectives of the target market
- testing how products and services are likely to function
- considering whether their charges represent fair value to different groups of customers
- taking appropriate action where a value assessment identifies the price does not provide fair value

In supporting customers understanding by:

- communicating terms clearly and highlighting key risks for consumers by disclosing and explaining risks in understandable way
- considering consumers' information needs after the initial point of sale, and throughout the cycle of the product
- helping to ensure consumers get the necessary calls to action to avoid something that would negatively impact them
- testing communications where appropriate to support consumer understanding

Through consumer support by:

- adopting a flexible consumer support approach
- using appropriate friction in customer journeys to give customers sufficient opportunity to understand and assess their options
- dealing with issues when they arise to prevent customers from suffering harm as a result of firm inaction

What it does not require

Neither this cross-cutting rule nor the Duty overall:

- Mean that consumers can or will be protected from all harm.
 - Sometimes harm will occur because of circumstances that were not reasonably foreseeable.
 - Sometimes firms might only be able to identify the harm when it is too late for the firm to act.
 - Many financial products involve risk. These may be due to the nature of the product or service, or external factors. A consumer may suffer an adverse outcome if such a risk materialises.
 - There is not an expectation for firms to protect customers from risks that they reasonably believed the customer understood and accepted.
- Prevent an insistent customer from making decisions or acting in a way that the firm considers to be against their interests. Firms should aim to help customers understand the consequences of their decisions but if a customer insists on a course of action that the firm regards as harmful, they are not obliged to prevent it. The firm should take steps to ensure that customers understand the risks of their action.
- Require a firm to ration the use or withdraw individual products or interfere in the transactions of customers based on potential risk where a prudent firm would not otherwise do so.
- Go beyond what is reasonably expected by consumers in the delivery of their service.
- Prevent a firm from withdrawing a product or service. However, a firm can cause foreseeable harm or frustrate the objectives of its customers in the way it does so. For example, if a firm withdrew a product or service abruptly or without considering the effect on the consumers who are impacted this could cause foreseeable harm.

ENABLE AND SUPPORT CUSTOMERS OBJECTIVES TO PURSUE THEIR FINANCIAL OBJECTIVES

Firms must act to enable and support customers to pursue their financial objectives and it applies throughout the customer journey and life cycle of the product or service.

This rule does not remove the responsibility that consumers have for their actions. Consumers can only take responsibility where they are enabled and supported to make informed decisions in their interests through firms creating the right environment. Firms must focus on putting customers in a better position to make decisions.

The actions a firm might take to support customers to pursue their financial objectives would be determined by what is within a firm's control. The conclusions a firm can reach about the customers' financial objectives will also depend on the type of product or service it provides:

- Where a firm provides a product or service on an execution-only or non-advised basis, customers' financial objectives can be assumed by the firm to be the enjoyment and use of the product and service they have purchased.
- A firm providing advisory or discretionary services would understand more about the customer's specific objectives and would need to act on that knowledge.

Where a firm declines to provide a product or service, it should still consider whether there is information or support it could provide to help the customer pursue their financial objectives.

When firms should consider the requirement

Firms should support customers to pursue their financial objectives at all stages of the customer journey, for groups and when interacting with individuals.

Customers are more likely to achieve financial objectives when firms ensure that products and services

- function as expected
- are of fair value
- communications are clear and consumer support does not create barriers.

At design stage firms can support consumers by:

- designing with clear and straight-forward features so they can be understood
- not charging unreasonable exit fees which discourage customers from leaving

In communications firms can support customers by:

- considering customers that their communications are aimed at and tailoring communications so that they are likely to be understood
- helping customers navigate information, making it easy to identify key information and available options
- having systems and processes in place to test and monitor communications on understanding and using the outputs to improve their communications

Through consumer support firms can support customers by:

- designing and delivering support that does not create unreasonable barriers when realising benefits or acting in their interests
- ensuring consumer support enables consumers to fully use the products and services they buy and supports them in acting in their own interests, including avoiding 'sludge' in the design of consumer journeys, which uses friction to prevent consumers from taking actions
- ensuring channels of support work effectively and do not act as a barrier to utilising products, cancelling or switching to another provider should they wish to

What it does not require

Neither this cross-cutting rule, nor the Duty overall, require firms to go beyond what is reasonably expected.

- It does not require firms to carry out regulated activities outside of their scope of service and/or permissions.
- Firms are not required to go beyond what is expected of a prudent firm in the situation.

A consumer's financial objective is normally defined by their purchase of a product and service. Even in advised sales, the fact that a firm would need to understand the customer's underlying financial objective is a function of them purchasing the regulated activity of advice. This will not require the firm to go beyond what is reasonably expected by customers in relation to advised sales.

6 THE PRODUCTS AND SERVICES OUTCOME

OVERVIEW

Products and services that are poorly designed, or distributed to consumers for whom they were not designed, are unlikely to provide fair value. Consumers can only pursue their financial objectives and avoid foreseeable harm when products and services are fit for purpose. Firms acting in good faith should design and distribute products and services to meet this aim.

The products and services outcome rules are central to firms acting to deliver good outcomes, requirements include:

- ensuring the design meets the needs, characteristics and objectives of customers in the identified target market
- ensuring the intended distribution strategy is appropriate for the target market
- carrying out regular reviews to ensure the meeting of needs, characteristics and objectives of the target market

WHAT THIS MEANS FOR FIRMS

Guidance for manufacturers

Firms are manufacturers if they create, develop, design, issue, manage, operate, carry out, or underwrite a product or service. The concepts are deliberately broad, and the terms may overlap, to capture all aspects of the design, launch and ongoing operation throughout a product or service's life.

The rules apply to the manufacture of products and services and include those involved in carrying on a regulated activity or activities connected to providing a payment service or issuing electronic money. This covers all services including:

- a distributor's sales processes
- operating an investment platform
- operating a model portfolio service
- debt counselling services and arranging transactions

The rules apply at the level of the target market, rather than services for an individual customer, Firms need to review the service at that level.

The rules would only apply at an individual customer level where a bespoke service is developed for a particular customer.

The guidance is relevant to:

- new or significantly adapted products or services
- existing products or services that remain on sale to new customers or can be renewed by existing customers

Firms working together to manufacture a product or service

There may be multiple manufacturers for a single product or service. For example, an intermediary might design an investment fund and work with a fund manager to launch it. Both are considered co-manufacturers.

A firm would be considered a co-manufacturer where they can determine or materially influence the manufacture of a product or service, including determining essential features, main elements and the target market.

There must be a written agreement outlining respective roles and responsibilities to comply with the rules. The agreement is expected to be a confirmation of which firm is responsible for meeting different aspects of the outcome rules so in the event of a problem, it is clear which firm is accountable.

Manufacturers must approve existing products or services, any significant adaptation to a product or service, or any new product or service they introduce

The rules apply to each product or service marketed or distributed. They apply to:

- existing products or services
- new products or services intended for launch
- any significant changes planned

Whether a proposed change would be significant depends on the potential impact it could have on customers. Firms should consider features added or removed from the product or service, changes to the target market and any other changes to the terms and conditions.

Firms should regularly review the approval process to ensure that it is still valid and up to date and amend the approval process where necessary.

When withdrawing a product or service, the expectation is that consideration is given to the Duty and the impact the withdrawal could have on customer outcomes.

A manufacturer must identify a target market of customers for whom a product or service is designed

Firms must identify a group or groups of customers sharing common features whose characteristics, needs and objectives the product is or will be designed to meet. Identification of the target market should be at a sufficiently granular level, considering the characteristics, risk profile, complexity and nature of the product or service.

For simple products or services for the mass market, identifying the target market may be a straightforward exercise with a wide definition:

- term life assurance paying out a sum assured on a policyholder's death within a fixed term, for a fixed premium
- a payment service allowing free transactions for customers

More complex or niche products or services, the target markets should be defined in more detail. For example, a structured product with capital at risk offering a high headline rate but with complicated features making it difficult to understand what returns are likely in practice.

Products or services serving multiple purposes, the target market should cover all relevant groups of customers.

A manufacturer must consider the needs of customers with characteristics of vulnerability in its target market

A target market is likely always to include some customers with characteristics of vulnerability, customers who will experience vulnerability over time, as well as groups with other diverse needs.

Firms are not expected to review the needs, characteristics and objectives of individual customers, to track potential vulnerability for each customer or to monitor the diverse needs of each customer. The expectation is to:

- design products or services to take account of the needs, characteristics and objectives of all groups within the target market
- consider whether a product or service has features that could risk harm for any group of customers, including those with characteristics of vulnerability

The FCA do not expect firms to explore customers' circumstances exhaustively or to identify every customer with characteristics of vulnerability.

The FCA expect firms to support staff to identify signs of vulnerability and to set up systems and processes that enable customers to disclose their needs.

Firms should consider vulnerability at all stages of the design process, including:

- idea generation
- development
- testing
- launch and review

Examples of actions firms can take to identify vulnerability in the target market include:

- holding focus groups with customers with characteristics of vulnerability
- exploring resources provided from, and consulting with, specialist organisations
- consulting with customers when altering or withdrawing a product
- employing third-sector organisations who can review products

Firms should satisfy themselves that different outcomes for different groups of customers are compatible with the firm fully meeting the standards required by the Duty and the Equality Act or equivalent legislation, for all its customers.

Firms should consider other aspects of the Duty, including:

- their approach meeting the requirements to act in good faith and avoid causing foreseeable harm
- complying with the requirements under the customer communication outcome when providing information on the limitations of the policy and its key features
- complying with the requirements under the customer support outcome when dealing with customers who may have a valid claim

A manufacturer must ensure its products or services, including existing products and services, are designed to meet the target market's needs, characteristics and objectives

This requires firms to ensure each product or service is designed:

- to meet the identified needs, characteristics and objectives of customers in the identified target market
- so it does not adversely affect groups of customers, including vulnerability
- to avoid causing foreseeable harm

The expectation is to base work on real consumer needs, characteristics and objectives, not copying other products or services.

Firms are required to undertake testing of their products or services, assessing whether the product or service will meet the target market, including vulnerability.

Firms should consider the appropriate level of testing.

- In all cases, testing in a qualitative manner. For example, considering likely changes to the target market's needs in the future and whether the product or service would continue to meet those needs.
- Depending on the type and nature of the product or service and the risk of harm, also conducting quantitative testing. For example, testing how investments would perform in different market conditions.

Firms should consider:

- what might happen in the future.
- how the product or service is likely to function over its proposed term and the average time customers are expected to hold the product or service
- consumer testing, particularly relevant where there are greater risks of consumer harm

With consumer testing, the range of consumers included should be appropriate and representative of the groups of customers likely to be impacted.

Research should be designed to solicit open feedback, which is then fairly considered and acted upon.

A manufacturer must develop a distribution strategy appropriate for the target Market

Firms should consider what distribution channels are appropriate for the target market. For example, a complicated product only sold with advice or by distributors with specific expertise. Unless they have an oversight role, manufacturers are not responsible for the activities of distributors.

Firms must make all appropriate information available to distributors to:

- understand the characteristics of the product or service
- understand the identified target market
- consider the needs, characteristics and objectives of any customers with characteristics of vulnerability
- identify the intended distribution strategy
- ensure the product or service will be distributed in accordance with the target market

Firms must provide distributors with adequate information to enable them to comply with their own requirements under the products and services outcome.

Guidance for distributors

Firms are distributors if they offer, sell, recommend, advise on, arrange, deal, propose, or provide a product or service, including at renewal.

Distributors must have distribution arrangements for each product or service they distribute

The arrangements must:

- avoid causing and mitigate foreseeable harm
- support management of conflicts of interest
- ensure the needs, characteristics and objectives of the target market are taken into account

Distributors must understand the products or services they distribute

Distributors must get appropriate information from manufacturers so they have the necessary understanding of the products or services they distribute, allowing them to:

- understand the product or service
- understand the target market
- consider vulnerability
- identify the distribution strategy
- ensure distribution in accordance with the target market

Firms should not distribute a product or service if they do not understand it sufficiently.

Firms distributing products or services that were not created by a firm subject to the rules for manufacturers should comply with the products and services outcome

Distributors must comply with the obligations on distributors under the rules for this outcome, for example, taking all reasonable steps to understand the product or service and the target market in order to ensure it will be distributed appropriately.

A distributor should identify or create a distribution strategy

Distributors are required to identify the distribution strategy and ensure it will be distributed in accordance with the target market. When implementing a specific distribution strategy to supplement the manufacturer's strategy it must be consistent with the manufacturer's strategy and target market.

Data and monitoring

Manufacturers must regularly review whether their:

- products and services meet the target market, including vulnerability
- distribution strategy remains appropriate
- products or services have been distributed to customers in the target market

Distributors must regularly review whether:

- their distribution arrangements are appropriate and up to date
- products and services have been distributed to customers in the target market

When deciding how regularly to review consider factors such as:

- nature and complexity
- nature of the customer base, including whether there are significant numbers of vulnerable customers
- indicators of customer harm

Sharing information

To support manufacturers' reviews, distributors must, upon request, provide relevant information, including:

- sales information
- information on cancellations
- information on the regular reviews of their distribution arrangements

The requirement to provide information applies to all distributors in the distribution chain, with all firms co-operating. The FCA do not expect distributors to share information without being asked.

As the information is to support a manufacturer, the FCA expect the manufacturers to consider what information would be helpful and to take reasonable steps to gather it. For example considering focus groups including a few distributors or sending surveys.

As an exception to the general approach, distributors must inform other relevant parties in the distribution chain if they take remedial action following a review of distribution arrangements. There is also a requirement for firms to notify relevant parties in the distribution chain if they identify consumer harm. If distributors identify information that should be shared with the manufacturer, they should provide it promptly. For example, this could include situations where a distributor identifies foreseeable harm or problems with the way a product or service is operating in practice.

Distributors are not expected to share individual customer information which conflicts with data protection laws. They should consider anonymised or aggregate information instead.

Manufacturers could ask questions such as:

- Are there any issues identified by the distributor in relation to the target market assessment?
- Are there any issues identified by the distributor in their review of distribution arrangements for a product or service?
- Have any issues been identified by, or for, customers with characteristics of vulnerability? What are they at a high level (not identifying individual customers)?
- Have any sales outside the target market been identified in the distributor review? In what way are they outside the target market? What harm is foreseeable?
- If a manufacturer judges a product should generally be held for at least five years, and where the firm lacks oversight of the full distribution chain or end customers, it could ask what proportion of customers hold the product for less than one year, or more than one year but less than five?

Where manufacturers ask for information, distributors should consider what they can do to help and consider if the information they provide is adequate.

Monitoring distribution of products and services not designed by firms subject to this outcome

Firms distributing where the products and services outcome does not apply should take extra care. They should consider whether the product or service remains appropriate for the needs, characteristics and objectives of the target market.

The types of data/ monitoring firms could consider

Consider data such as:

- sales information and information on business persistency
- customer feedback
- complaints received and the results of root-cause analysis
- whether the product or service functions as expected at outset
- whether customers use product or service features as expected
- where appropriate, consumer research, such as focus groups or new testing

Actions to address issues identified in the review

If firms identify issues, they must take action to mitigate and prevent further harm. Where appropriate, informing other firms in the distribution chain.

Key questions for firms

Examples questions if interacting with the FCA in relation to this outcome.

- Has the firm specified the target market?
- How has the firm satisfied itself that its products and services are well designed to meet the needs of consumers in the target market, and perform as expected? What testing has been conducted?
- How has the firm identified if the product or service has features that could risk harm for groups of customers with characteristics of vulnerability? What changes to the design of its products and services is it making as a result?
- Is the firm sharing all necessary information with other firms in the distribution chain, and receiving all necessary information itself?
- How is the firm monitoring distribution strategies and that products and services are being correctly distributed to the target market?
- What MI is the firm using to monitor whether products and services continue to meet customer needs and contribute to good consumer outcomes? How regularly is it reviewing and what action is being taken as a result?
- If withdrawing from the market, has the firm considered whether this could lead to foreseeable harm?

WHAT THIS DOES NOT MEAN

The products and services outcome rules do not require firms to:

- Exclude particular groups (e.g. vulnerability) and whose needs or objectives a product might meet. The expectation is to take account of all groups within the target market.
- Ensure that products or services are suitable for individual customers, except where relevant (e.g. when providing advice or discretionary services).
- Mitigate harm that was not foreseeable.

INTERACTION WITH EXISTING RULES

PROD does not have general application across all retail markets. If a product or service is subject to PROD, it must continue to comply with those rules. PRIN 2A.3 do not apply to the firm for that product or service. Examples of material that could be used to show PROD compliance:

- product approval process
- if more than one firm involved, a copy of the written agreement
- records of the target market assessment
- product or service testing
- information provided to distributors
- reviews of the product or service, including in relation to action taken to address any identified issues
- oversight and control arrangements
- compliance reports that comply with PROD

SUMMARY

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
Target market defined so broadly that it captures customers who are generally incompatible.	Target market defined at a sufficiently granular level to avoid sales to incompatible customers.
Products or services not considering the needs, characteristics and objectives the target market.	Products or services considered so they meet the needs, characteristics and objectives of the target market, taking appropriate action where they do not.
Not testing a new product or service before launch and as a result it does not meet the objectives of the target market.	Testing products or services before launch to assess how they will function in different conditions and whether it could lead to foreseeable harm, then adjusting if there are potential issues.
An inappropriate distribution strategy which is therefore distributed to incompatible customers.	Products or services with an appropriate distribution strategy, sold to customers in the target market.
Not reviewing products or services or distribution and not identifying issues when they become foreseeable. Missing the chance to prevent the harm.	Identifying potential issues during reviews of a product or service and taking appropriate steps.
Not considering the fairness of product or service contract terms, resulting in unfair terms that are not enforceable.	Drafting and regularly reviewing product or service contract terms to ensure compliance with the fairness requirements.

7 THE PRICE AND VALUE OUTCOME

OVERVIEW

Retail customers experience harm where they don't get value for their money and fair value is about more than just price.

The specific focus of the price and value outcome is on ensuring the price the customer pays for a product or service is reasonable compared to the overall benefits. Value needs to be considered in the round and low prices do not always mean fair value.

The intention is not to set prices and the rules do not have this effect. It does not mean that firms are expected only to offer products and services at a low price. Products or services that cost more may well provide value if that reflects their quality and benefits.

High pricing might also indicate that some other element (e.g. transparency, simplicity of terms, ease of exit) isn't functioning properly and/or that there is an absence of effective competition in a market.

A product or service that meets all of the elements of the Duty is more likely to offer fair value:

- because of the benefits customers receive
- because they have the information they need about the benefits and limitations
- because of the ability to pick something else should they prefer

The price and value outcome prompts firms to ask questions such as:

- Are there elements of the pricing structure that could lead to foreseeable harm?
- Are there charges which appear unreasonably high compared to the benefits and other comparable products?
- Should any changes in the product be reflected in the price?
- Should any material changes to assumptions that underpinned pricing be reflected in the price?

ASSESSING VALUE

To assess value, firms must consider at least the following:

- the nature of the product or service, including the benefits that will be provided
- any limitations
- the expected total price including fees and charges over the lifetime of the relationship between customers and firms

When performing value assessments, consider a range of factors in demonstrating that the price paid is reasonable compared to the benefits. These are also the factors the FCA may consider when looking at a firms' value assessments:

- The cost of manufacture and/or distribution.
- The market rates and charges for comparable products or services and whether they are a significant outlier compared to these.
- Any products in the portfolio which are priced significantly lower for a similar or better level of benefit.
- Accrued costs and/or benefits for existing or closed products.

Firms could conduct customer research, testing or use internal data to assess whether a product or service provides fair value. They should not rely solely on individual consumers to consider if price provides fair value.

Firms have the discretion to decide on the factors they use, provided those factors demonstrate that there remains a reasonable relationship between price and benefits.

Firms must assess value at the design stage and before offering to consumers, ensuring the price represent fair value for a foreseeable period.

Firms must monitor and assess value throughout the product or service life, conducting reviews of the value assessment and taking action if they do not provide fair value.

Where products and/or services are part of a package, ensure that each component part and the overall package provide fair value.

The FCA expects that firms can show that they have made an assessment and can demonstrate why the relationship between the price and benefits is reasonable.

As with the entire Duty, the price and value outcome rules apply based on what is reasonable. The nature of the value assessment and the data and insight firms use to inform that assessment will vary depending on the type of product or service, and the size and complexity of the firm.

Firms may group similar products together where the customer base, complexity and risk of consumer harm are sufficiently similar.

If providing a product or service that has no financial cost, consider if customers are incurring non-financial costs, and whether those costs are reasonable in relation to benefits.

The FCA does not expect firms to base assessments on external factors largely out of their control.

WHAT THIS MEANS FOR FIRMS

Benefits received by consumers

Manufacturer firms must assess the benefits that meet the needs, characteristics and objectives of the target market.

Different products and services will offer different benefits, which will have an impact on the assessment of value. For example, a premium current account with greater support, cash-back or add-on insurance products for a monthly fee. This may be considered fair value where there is a reasonable relationship between the benefits received and the price paid.

Characteristics such as the quality of the service or level of consumer service determine benefits against which the price should be assessed. For example:

- a simpler product with fewer features might offer fewer benefits than one with greater coverage
- a firm offering enhanced customer support or higher quality customer interactions, will provide more benefit
- greater availability and convenience of consumer access will also be a benefit

The price charged to consumers

When considering price, also consider all the costs and charges for the product or service over time. For example:

- Charges at the start and end of a contract.
- Different distribution arrangements resulting in different prices, ensuring distribution arrangements do not cause unfair value.
- Charges incurred over the life of the product or service, including contingent charges (e.g. fees as a result of late payments).
- When part of a package, consider the value of each component and the overall value of the package.

The price charged may be high because it reflects the underlying costs to the firm, for example, where customers represent a higher credit or insurance underwriting risk. The price charged may be higher, however, firms must still be able to demonstrate that the benefits were reasonable relative to the price.

When designing charges and charging structures, firms need to consider how their target market is likely to use the product or service and also the price different groups will pay through the term of the product relative to the benefits.

Non-financial costs should be considered, such as:

- the time and effort it takes to access, assess and act to buy, amend, switch or cancel a product
- the firms' use of consumer data where consumers knowingly or unknowingly 'pay' with their data, privacy or attention

Firms should not impose unreasonable non-financial costs (e.g. unclear or misleading information making it hard for a customer to assess options). If a firm imposes unreasonable barriers to assessing or accessing benefits, many customers might not act to realise financial objectives. In effect, this increases costs relative to benefits.

The Duty does not allow unreasonable exit charges as they are unlikely to be fair value, may cause foreseeable harm and are unlikely to support the fulfilling of financial objectives. Firms should be able to demonstrate that exit charges are fair and are reflective of their underlying costs for terminating a contract.

Guidance for distributors

Distributors must ensure their own charges represent fair value. All firms in the distribution chain are responsible for the value of the prices that they control and are not required to re-do or challenge other firms' value assessments.

Distributors must obtain relevant information from manufacturers to understand the value a product or service and to enable them to understand whether their distribution arrangements (including any remuneration it or another person in the distribution chain receives) would result in the product or service ceasing to provide fair value.

Distributors need to consider the cumulative impact of remuneration added by each party in the chain on overall value. This is important as fees charged might together result in a higher overall fee that does not represent fair value.

Where different firms are involved in the distribution chain for an investment product, they all have responsibility to consider fair value.

- The fund manager: Assessing whether charges are justified in the context of the overall value of the product.
- The platform provider: Setting fair value for using the platform. The provider could be the final firm in the distribution chain and will need to consider the overall impact of the charges throughout the chain on the value of the product.
- The financial adviser: Considering if advice charges provide fair value and the relationship between the overall cost (including all product and distribution charges) and the expected benefits.

Where a manufacturer sets the final price, including distribution charges they are responsible for ensuring fair value. The distributor does not need to carry out a value assessment, they must confirm that the manufacturer has carried out a value assessment and review the information to understand the benefits before they distribute.

Different outcomes for different groups

The FCA consider charging different prices to different groups of consumers is not necessarily in breach of the Duty. Firms may consider this when reviewing their approach to charging different prices to different groups of customers.

The price and value outcome do not require firms to charge all customers the same amount. Differential pricing between new and existing customers in the form of clear, transparent up-front discounts for either set of customers is not prohibited by the Duty. Where firms charge different prices to separate groups of consumers, they must consider whether the price charged for the product/service provides fair value for customers in each pricing group.

With different products serving similar target markets, consider if customers with one product are more likely to incur fees and charges, or appear to be receiving outcomes that are not as good, as customers in equivalent products.

Servicing fees can be charged as a percentage of the value so some consumers may pay substantially larger fees than others, even though the costs of providing the service and the benefits consumers receive may be similar.

Firms must consider whether the relationship of price in different groups is reasonable relative to the benefits they receive.

For fixed fees on their products (e.g. multiple fixed fees on a small investment) might result in overall poor value so firms must consider whether their charges provide fair value.

Firms should also consider how different groups are affected as some may be more at risk of harm. E.g., vulnerable customers may be more susceptible to receiving poor value. Firms should be able to evidence that the price represents fair value for different consumer groups, including vulnerability.

DATA AND MONITORING

As well as assessing value at the design stage, firms must review value throughout life. They must consider how regularly to perform ongoing value assessments based on relevant factors, including:

- the nature and complexity of the product or service
- indicators of customer harm
- the distribution strategy
- any relevant external factors

Firms must get all necessary information to understand and monitor consumer outcomes, considering record keeping obligations in Senior Management Arrangements, Systems and Controls sourcebook (SYSC) and in line with these, should consider what records they should maintain of their value assessments.

The FCA expect firms to be able to clearly demonstrate how any product or service provides fair value.

Firms should collect and analyse MI and to monitor that the fair value assessments remain valid over a foreseeable period. Firms should also record factors considered in their value assessments and should be able to provide evidence if requested.

Firms must take appropriate action where their review identifies not fair value. This may include amending the benefits or price, withdrawal or, providing redress.

The types of data/ monitoring firms could use

- the expected price paid, including associated fees and charges and those incurred further down the distribution chain
- profitability data, including revenue and profit margins
- customer complaints and root cause analyses
- surveys, net promoter scores, social media rating analysis, focus groups, mystery shopping
- data about customer usage and behaviour, such as transactional data, retention rates or relevant A/B testing of variation in product or service design
- operational data which might affect value such as on app or website outages or service call abandonment rates
- feedback from other firms in the distribution chain including regarding the value of the product
- the cost of providing the product or service, including credit risk
- market conditions, such as the interest rate environment or rates for comparable Products

Key questions for firms

These are examples of the type of questions firms could be asked. The expectation is the board champion and the Chair use this type of question to guide discussions.

- Is the firm satisfied that it is considering all the relevant factors and available data as part of its fair value assessments? Has it gathered relevant information from other firms in the distribution chain?
- What insight has the firm gained for its value assessments by benchmarking the price and value of its products and services against similar ones in the market? Have the price and value of its older products kept up with market developments?
- Can the firm demonstrate that its products and services are fair value?
- If charging different prices to separate groups for the same product or service, is the firm satisfied that the pricing is fair for each group?
- What action has the firm taken as a result of its fair value assessments, and how is it ensuring this action is effective in improving consumer outcomes?
- What MI is the firm using to monitor fair value on an ongoing basis? How regularly is it reviewed and what action is it taking as a result?

WHAT THIS DOES NOT MEAN

The price and value outcome rules do not:

- Operate as a price cap. Firms continue to have flexibility in the way that they set prices.
- Prevent firms with an innovative product or service which provides additional benefits to charge more for it. It is not our intention for the price and value outcome – or any aspect of the Duty – to hinder innovation.
- Prevent firms from adopting models which have different prices for different groups or prevent cross subsidies between products or services. However, firms should be able to justify the fair value of each product or service offered.
- Require firms to point consumers to a potentially better or cheaper product or service offered by another firm. However, firms may want to consider the market rates and charges for comparable products or services in their fair value assessments.

INTERACTION WITH EXISTING RULES

Where existing rules require manufacturer and distributor firms to assess fair value and to review this regularly, they will comply with the price and value outcome. The Duty as a whole is broader than these requirements, so firms still need to consider if they meet all other aspects of the Duty.

SUMMARY

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
Pricing practices which give no consideration to benefits in relation to the total price.	Carrying out a value assessment and documenting how prices provide fair value.
Altering products or services after launch without considering the impact on customers, so fair value may no longer continue.	Considering if changes have any significant impact on fair value and either withdraw or amend if they are poor value.
No regular reviews of fair value and so not identifying potential issues when becoming reasonably foreseeable, missing the chance to mitigate the harm.	Proactively assessing fair value and identifying issue during a review, taking appropriate steps. Customers suffer no harm in practice.
Many different products with different charges/fees/prices but with similar levels of benefits. Some charges are high in relation to the benefits and some do not offer fair value.	Considering the reasonableness a product range and whether each product provides fair value.
Having significantly lower prices for new customers than existing customers, so not considering different groups and longstanding customers receiving poor value.	Having different charges for groups and all groups receiving fair value with a reasonable relationship between the benefits received and the price they pay.
A product that is priced based on risk, it provides fair value to some groups, but one pays costs that are disproportionate to benefits.	A product that is priced based on risk and all groups receiving fair value, the price paid is reasonable relative to the benefits.

8 THE CONSUMER UNDERSTANDING OUTCOME

OVERVIEW

Consumers can only take responsibility when communications enable them to understand features and risks, and the implications of decisions. The FCA want customers to be given the information they need, at the right time, and presented in a way they can understand.

The consumer understanding outcome retains the obligation for communication to be in a way which is clear, fair and not misleading, requiring firms to:

- support understanding by ensuring communications meet customer information needs and are likely to be understood to make effective, timely and properly informed decisions.
- tailor communications and accounting for the customers intended to receive the communication, including vulnerability, complexity, the channel used, and the role of the firm
- when interacting directly to tailor communications to meet information needs of the customer, and ask them if they understand and have any further questions
- test, monitor and adapt communications to support understanding and good outcomes

These rules apply:

- to all firms regardless of whether the firm has a direct relationship with a customer
- at every stage of the product or service lifecycle
- to all communications

Firms that approve financial promotions on behalf of others are expected to meet this outcome. Firms must act reasonably in the circumstances to ensure the communications they approve equip customers to make effective, timely and properly informed decisions.

This outcome applies based on what is reasonable, depending on the nature of the product, the characteristics of the customers, and the role of the firm.

WHAT THIS MEANS FOR FIRMS

Equipping customers to make effective decisions

Firms should 'put themselves in their customers' shoes' when considering communications so customers make effective decisions. An effective decision will usually be one that maximises the likelihood of a customer achieving a good outcome.

Firms should act in good faith and avoid designing or delivering communications in a way that exploits consumers' information asymmetries and behavioural biases, including:

- a lack of a succinct comprehensive list of charges being clearly signposted
- information being spread out across different webpages
- too many links to different sections and pages
- omission of a clear statement of the interest applying to any cash held or the information being 'hidden away' in legalistically worded terms and conditions

Firms should act in good faith and produce communications that provide a fair summary of the risks and benefits that their products and services provide.

Firms must act in good faith and ensure that the options available to consumers are presented in a clear and fair way and must go further by ensuring that their choice architecture isn't designed to influence consumers to select options that benefits the firm.

Communications should be understandable by the intended recipients and enable them to evaluate their options.

Firms should consider how the way in which information is presented can help to improve or inhibit understanding. Firms should ensure that key information is clear, visible and accessible.

The FCA expect firms to adopt good practices that enhance clarity, thus supporting effective decisions. Communications can be more effective when they meet the following points.

- **Layering:** Key information provided upfront with cross-references or links to further detail. Firms should ensure the information they provide is coherent and effective.
- **Engaging:** Designed in a way that encourages consumers to engage with them. The key information should be easy to identify by means of headings and layout, bullet points, display and font attributes of text.
- **Relevant:** Consider the appropriate level of detail for each communication, taking into account what customers need to know, the kind of decision to be made and where confusion could arise. Firms should avoid unnecessary disclaimers as key information can be overlooked with unnecessary detail. Shorter, concise communications are more likely to be read and understood.
- **Simple:** Present information in a logical manner avoiding jargon or technical terms. Where unavoidable, explain the meaning in plain and intelligible language.
- **Well timed:** Communicate in a timely manner and at appropriate touch points throughout the lifecycle, such as at contractual breakpoints.

Other disclosure requirements

There are a range of legislative and regulatory disclosure requirements, firms should continue to comply with these. Firms will need to think more widely about the purpose of their communications, and the outcomes to meet expectations under the Duty.

When communicating complex information consider what additional steps could be taken to support understanding.

Some requirements provide a framework or template for firms to present key information, but there can be areas of discretion where firms should follow the high-level rules and guidance.

Ensuring information is provided on a timely basis

Product and service features and customers' circumstances can change over time. Both factors can result in them no longer meeting needs and objectives.

Firms should be mindful of this and communicate at appropriate points, including any relevant changes. This is important for longer-term contracts where there is greater scope for circumstances to change. .

Conversely, firms should also consider the effect of communicating too frequently, and diminishing the impact of important communications on which action is required.

Relevant information should be provided at an appropriate stage, giving the opportunity to review the communication before deciding to act.

The communication channel used

Communications should be effective regardless of the channel of communication used and digital communications should be compatible with different mediums, for example computers, tablets or smartphones. Regardless of the channel used for communication, the information provided should enable the assessment of options.

Tailoring communications

When communicating, firms should consider its target market and tailor communications to meet information needs.

When developing communications that are not linked to a product or service, take into account what is known, or reasonably be expected to be known about sophistication, financial capabilities and vulnerability and tailor meet those needs.

It is not expected that all communications meet the individual needs of each customer or that each customer understands all of their communications. However, where a customer requests specific information, it is expected that firms to respond and act to deliver good outcomes by providing information in a way the customer will understand.

The information provided should not amount to advice unless the firm has an advisory role.

Testing communications to support understanding

Firms may consider their communications understandable, but that may be the view of those involved so effective communications are those which can be understood by the target customers. Therefore, firms should test communications. Firms will have different capabilities depending on their size, resources, and activities. So, their approach to testing will vary. Firms should take into account factors such as:

- the purpose of the communication and if it includes key information designed to prompt or inform a decision, and the relative importance of that decision
- the context of the communication, its timing, and its frequency
- the needs and vulnerabilities of recipients, including those with low financial capability who may be less likely to understand the communication
- the scope for harm if the information was misunderstood or overlooked
- whether it is more important to communicate information urgently rather than carrying out testing

Testing should usually be carried out in advance of communication, for example when firms are developing sales literature. There may be scenarios where firms need to respond at pace and therefore balance considerations of the time taken to test with the need to intervene urgently. It also may not be possible to test certain communications, such as ad-hoc conversations during customer service calls.

Understanding could be tested by:

- randomised controlled trials
- A/B tests
- customer surveys
- focus groups

Testing should provide assurance that customers can identify and understand the information needed to make effective decisions, including:

- actions required by customers and any consequences of inaction
- the key features, benefits, costs and risks where customers need to evaluate or make a choice
- how to access additional information or support

Firms should consider which questions or outcomes will elicit accurate measures of understanding in an objective way. For example:

- Goal: to convey the cost of a product
- Objective question: 'what was the cost of the product?'

- Goal: to explain certain product choice options
- Objective question: 'please explain the options available to you'

Testing should be carried out with an audience that is representative of the intended recipients. For example, consider diversity and vulnerability.

Where there is no direct customer relationship, testing activity might consist of randomised controls trials or other approaches, such as focus groups.

Where a distributor uses manufacturer communications, therefore not carrying out testing, it should provide relevant feedback. For example, if communications are causing confusion.

Firms should take steps to satisfy themselves, through the appropriate use of testing and evidence, that their communications are likely to be understood.

Firms should embed processes of continuous improvement based on evidence of customer understanding.

Firms may wish to train consumer communications champions who can independently review communications from a consumer angle in order to develop and maintain best practice.

Methodology	Outputs of this approach	Likely complexity and resource requirements
Randomised controlled trials or A/B tests with real customers or online experiments. Comparing understanding of communications between randomly allocated 'control' and 'treatment' groups.	A direct measure of understanding. This can be the best way to measure how well a communication is working and would allow the firm to understand baseline levels of understanding and to make improvements.	Requires specialist knowledge and a large enough sample to be able to make the comparison in a statistically sound way.
Surveys: By questionnaire which could also be integrated into sales processes. Consideration would need to be given to the likely selection bias (customers who respond may be systematically different from those who do not).	Objective measures of understanding through well designed questions as well as self-reported beliefs and thoughts about a communication.	Requires specialist expertise, but it is likely to be less resource intensive and can potentially be done on smaller samples. Can be quick and easy to administer, especially if carried out online.
Interviews: Effectively verbally administered surveys. Unstructured interviews involve follow up and elaboration of questions.	Objective measures of understanding through well designed questions and good interview technique as well as self-reported beliefs and thoughts on communication. Can illicit more in-depth understanding than a survey.	Requires expertise in sampling and interview design and technique. Structured interviews can be relatively quick and easy to administer. In general, interviews are likely to be more time consuming to administer than a survey.
Focus groups: group interviews capitalising on communication between participants to generate data. Focus groups using employees could also provide useful feedback and challenge on pilot communications.	Can give a breadth of understanding of the thoughts and experiences of users. It is more likely to elicit subjective opinions than objective answers to questions.	This can be a convenient way to collect thoughts and opinions from several people simultaneously. It requires expertise in interview technique and managing group dynamics.

DATA AND MONITORING

Firms should monitor whether their communications are supporting customer understanding and helping their customers make effective, timely and properly informed decisions.

The expectation is that firms consider the impact communications have, monitor whether this is the case in practice, and carry out further investigation where this is not the case, identify and remedy any issues to support good customer outcomes. For example, if there is a notably lower response rate than anticipated following a communication to take action this may indicate that the communication is not understood.

Firms should collect and make use of relevant MI to monitor the impact of communications and identify areas that warrant further investigation. For example:

- communication response rates
- take-up rates
- complaints information

Firms should monitor the impact of communications during customer journeys such as accessing additional information in relation to risk warnings and acting on this information.

Firms should monitor events or changes that impact the content of communications, ensuring they remain relevant and up to date.

Where a firm identifies or becomes aware of a communication produced by another firm in the distribution chain that is not delivering good outcomes, it must promptly notify the firm. Firms should also notify the FCA.

If a firm identifies widespread misunderstanding or issues which mean that the communications are not delivering good outcomes, they should take action.

The expectation is that firms adopt a reasonable and proportionate approach to monitoring and taking action. There should be appropriate governance processes in place and firms should consider keeping a record of relevant actions.

The types of data/monitoring firms could use

Firms could use the following types of data:

- findings from testing communications
- customer response rates
- whether customers are following instructions in communications
- analysis of responses to communications including drop-out rates
- product take-up rates
- product switching rates
- claim rates, including analysis of declined claims
- relevant complaints data

Key questions for firms

Examples of the type of questions firms can expect to be asked.

Key questions for firms

- Is the firm applying the same standards and testing capabilities as they are to generating sales and revenue?
- What insights are used to decide how best to keep customers engaged whilst ensuring customers have the right information at the right time to make decisions?
- How is the firm testing the effectiveness of its communications and acting on the results?
- How does the firm adapt communications to vulnerable customers and how does it know these are effective?
- How does the firm ensure communications are equally effective across all channels and how does it test that?
- What data, MI and feedback does the firm use when monitoring communications?
- How often is data reviewed, and what actions are taken?

WHAT THIS DOES NOT MEAN

The rules do not require firms to:

- Tailor communications to meet the needs of each individual customer.
- Always communicate with customers via all or a particular channel of communication.
- Test all communications, firms should test where appropriate. Where testing is not required, firms should still review to ensure they meet the other expectations.
- Verify that all customers have understood information provided. Firms should take steps to ensure communications are likely to be understood.

INTERACTION WITH EXISTING RULES

Firms should continue to follow product-specific rules and guidance where applicable, as they remain necessary to achieve particular outcomes.

SUMMARY

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
Framing communications to exploit customers' information asymmetries and behavioural biases.	'Put themselves in their customers' shoes' and considering that communications gives the right information, at the right time, to assess products and services and make decisions.
Making no attempt to help customers navigate the information provided, making it difficult for customers to identify key information and options. Relying solely on the tick box 'I have read the terms and conditions'.	Adopting practices that enhance clarity and act to make communications more effective. For example, layering information, engaging communication, relevant, simple and timed well.
Designing strategies based solely on what is most commercially efficient, rather than accounting for information needs.	Segmenting or targeting communications to make them more relevant rather than a 'one size fits all' approach.
Not considering information needs after the initial point of sale.	Proactive in thinking about how best to engage and communicate after the point of sale.
Not adopting a reasonable approach to testing either by failing to identify where testing would be appropriate, or by not providing a reasonable basis to conclude communications are likely to be understood.	Adopting an effective approach to testing which assures communications can be understood. Adopting a 'test and learn approach', adapting communications with the aim of improving understanding.
Not considering the fairness and clarity of contract terms, resulting in unfair terms that are not enforceable and/or unclear contracts that contain out of date material.	Drafting and regularly review their contract terms.
Not considering whether communications contain misleading information and omissions.	Ensuring practices and communications are clear, fair and not misleading.

9 THE CONSUMER SUPPORT OUTCOME

OVERVIEW

Consumers can only pursue financial objectives where firms support them in using the products and services.

The FCA expects firms to provide support that meet customer needs, enabling them to realise the benefits of products and services, pursue financial objectives and ensure that they can act in their own interests. The consumer support outcome require firms to:

- design and deliver support that meets customer needs including vulnerability
- ensure that customers can use their products as anticipated
- ensure appropriate friction in customer journeys to mitigate the risk of harm, giving customers opportunity to understand and assess options and risks
- ensure customers do not face unreasonable barriers during the lifecycle of a product or service
- monitor the quality of the support and look for evidence of areas falling short, and acting promptly
- ensuring groups of customers are not disadvantaged including vulnerability

There is a close relationship between consumer support and consumer understanding. Under consumer understanding firms should communicate in a way that equips customers to make effective, timely and properly informed decisions. Under consumer support firms should enable customers to act on decisions without facing unreasonable barriers.

This applies based on what is reasonable depending on the nature of the product, the characteristics of the customers, and the role of the firm. There will be differences in the capabilities of a firm depending on its size and complexity. One question than can be asked is whether the same standards are applied as they are to generating sales and revenue. For example:

- making it at least as easy to switch, leave or make a change, as it is to buying
- the quality of post-sale support should be as good as pre-sale support

Firms should make sure that support is effective, regardless of the channel used.

WHAT THIS MEANS FOR FIRMS

Providing support that meets the needs of customers

Support should enable customers to fully utilise the products and services throughout its lifecycle when making an enquiry, claim, complaint or switching provider.

Firms should ensure support processes avoid causing harm and helps consumers meet financial objectives. Harm can arise due to failings in support such as:

- consistently poor or excessively slow service
- channels of support not meeting customer needs, including non-standard issues and vulnerability
- under-resourced helplines where firms disproportionately focus on pre-sales
- phone systems, menus or webchats that are difficult to navigate
- badly designed websites making it difficult to find key information
- uncertainty around how or where to access support
- poor hand-off processes

Channels of support

There are many different channels to provide support, including telephone, email, in branch, text, written, webchat and video calls. The FCA do not prescribe which channels are offered but firms must ensure the support meets customer needs, including non-standard issues and vulnerability.

Firms should monitor the support provided, take feedback into account, and look for signs that the channel offering is not sufficient and if this is the case take steps to address any shortfall in the support.

Meeting the needs of customers with characteristics of vulnerability

The FCA expect firms to respond flexibly to the needs of vulnerable customers by providing support through different channels or adapting a usual approach.

This does not mean firms to always communicate and provide support through each individual customer's preferred channel, but it is expected that firms provide effective support to meet customer needs.

Products where support is provided through limited channel(s)

A firm could design a digital only product that meets the needs of a tech-savvy target market. Where this is the case it is not expected that the firm offers an additional non-digital service for customers outside the target market.

However, when providing support mainly or only through one channel there are factors to consider to ensure good customer outcomes, including:

- Communicating support. Ensuring products and services are targeted appropriately and channel(s) of support offered are clearly communicated before sale, so customers can assess whether it meets their needs. For example, signing up for digital-only support.
- Effective support. Ensuring limited channel(s) offered enable customers to realise product or service benefits and act in their interests without barriers. Unclear or confusing customer journeys will not meet this standard.
- Dealing with non-standard issues. Exceptions processes should be in place to deal with non-standard issues, including security or fraud concerns, technical issues, or other complex / sensitive customer journeys. A real-time human interface, such as a phone service, is likely to deal with these issues and provide effective support.
- Operational resilience. The ability to continue providing a reasonable level of support in the event of an issue arising, including temporary works, IT outages, or cyber-attack.
- Protected characteristics. Certain characteristics are protected by law, for example for disabled customers under the Equality Act 2010. Support offered should allow for reasonable adjustments to be made.
- Customers with changing needs. Anyone can become vulnerable either temporarily or permanently. If a customer's circumstances change it could mean that limited channel(s) of support no longer meet their needs. It is expected that firms support customers including exiting a product or service where appropriate.

Appropriate friction and unreasonable barriers

Firms should consider the purpose and impact of friction points. In some circumstances, friction points or nudges can help to mitigate the risk of consumer harm and support good outcomes, but they can also create unreasonable barriers by making it more difficult for customers to act in their interests.

What amounts to friction or barriers will depend on circumstances. Firms are expected to apply judgement and distinguish between positive frictions or nudges and harmful frictions that create unreasonable barriers (sludge practices).

The consideration of friction points should also be informed by monitoring activity, it is expected that firms are able to justify and evidence the benefits of additional steps in customer journeys.

Appropriate friction

Firms should consider the need to build positive frictions into processes to deliver good outcomes. There could be too excessive streamlining of processes to ensure high conversion rates.

Processes without appropriate friction or nudges can risk a purchase which is not fully understood or right. Customers should be provided with the right information and given time to make important decisions. Additional steps can therefore be in customer's interests.

Sludge practices

There can be commercial incentives to create friction points (sludge) that deter their customers from taking action in their interests (such as making a complaint or switching product). Even when not setting out to create sludge, firms can fail to give attention and support where customers seek to take action that does not benefit the firm. This is not consistent with the Duty.

Consumer support should enable customers to get what they paid for without unreasonable barriers. Firms should consider steps to support customers wanting to buy and make it at least as easy to switch, leave or make a change.

While prompts or incentives to retain a customer are acceptable, they should not unreasonably impact the ease with which a customer could switch or exit from a product or service should they choose to do so. Firms should carefully consider the effect of these practices on customers' ability to switch or to act in their interests more broadly.

Unreasonable additional costs

The support firms provide should not lead to a greater than expected up-front cost. Consumer support should not impose unreasonable additional costs, including exit fees, other charges, delays, distress or inconvenience.

Product terms and conditions can include contractual provisions relating to early termination, but firms should not impose unreasonable exit fees. An exit fee is more likely to be reasonable if it is commensurate with the costs incurred by the firm due to the customer terminating the agreement early. Any provisions should be clearly drawn to customers' attention in line with consumer understanding.

Some delay, inconvenience or cost during interactions might not be unreasonable depending on circumstances. The Duty does not set rigid standards of how long a customer should wait to talk to an agent, how long a call should last, or how long an issue should take to be resolved (except where prescribed in other rules, such as DISP complaint handling).

There may be cases where delays in getting support would not be regarded as unreasonable. For example, a call centre experiencing unforeseeable demands leading to long wait times or system downtime for routine maintenance or upgrade.

Firms should ensure post-sale support is as good as pre-sale. To make sure firms should carefully consider insight obtained through their monitoring activities. If for example a firm can see a trend of calls being terminated by customers before they are answered and dealt with, this would suggest the firm is not providing an appropriate standard of support to its customers.

Firms should have reasonable processes in place to deal with strain on their operations when issues arise. When issues impact the delivery of consumer support customers should be kept informed of events, in line with consumer understanding.

Different levels of inconvenience or delay may be reasonable in different circumstances. A reasonable delay for amending a standing order may not be reasonable for disabling a stolen credit card for example.

Firms are expected to ensure customers are not exposed to unreasonable additional costs as a result of servicing and to use proportionate resources to meet expected demand.

Dealing with representatives and other firms

Customer representatives

Where a person is authorised to assist in the conduct of the customer's affairs (such as power of attorney), firms should provide the same level of support to that person. This does not mean the same characteristics of vulnerability as the customer they are representing. It means they should receive an appropriate standard of support and not face unreasonable barriers when acting on behalf of the customer.

Firms' dealings with other firms

The consumer support outcome do not apply to scenarios where a regulated firm is dealing with another firm on behalf of a customer e.g. a mortgage intermediary dealing with a lender. This would constitute a normal business relationship between a manufacturer and distributor.

However, firms must not cause harm due to shortcomings in the way they deal with other firms. Firms must deal with requests from other firms in an effective way and in good time to enable other firms to comply with their obligations and provide effective support.

Outsourcing

Firms are responsible for their own activities, and they must meet expectations under this outcome as far as they are relevant to their role. Where a firm is outsourcing the firm is responsible and accountable for all the regulatory responsibilities. Firms cannot delegate any part of this responsibility to a third party.

If a firm chooses to outsource elements of its consumer support, it is responsible for ensuring the support provided meets the Duty standard. The firm should have systems and controls in place to monitor this.

DATA AND MONITORING

Firms should regularly monitor whether they are providing an appropriate level of support to identify and mitigate the risk of consumer harm. Firms must ensure the support they provide enables customers to realise the benefits and act in their interests without unreasonable barriers, including additional costs.

The FCA expect firms to be able to demonstrate that they have thought about how to design and deliver consumer support that meets this outcome and monitor that they continue to do so. For example, having processes and MI to check that existing customers receive an appropriate level of support and are not overlooked in favour of prospective customers.

Firms should consider information available on customer behaviour and feedback to identify whether customers, or particular groups of customers, are encountering unreasonable barriers.

Firms should also use the evidence they have about their customers' use of products or services and interactions with the firm to identify areas where their processes may create unreasonable barriers to customers, and act to reduce this.

Where consumer support is provided by an outsourced third party (whole or in part) the FCA expect the firm to have systems and processes in place to monitor that the support meets standards and to take appropriate action if not.

If, for example, a firm identifies an issue that prevented customers from utilising a product or service as anticipated, it should act in good faith and consider whether remedial action would be appropriate. This might include providing redress or proactively contacting customers to explain the issue and the steps in order to fully utilise the product or service.

On occasion individual customers will have a poor consumer support experience. Where this occurs the FCA expect firms to act in good faith and deal promptly and fairly, providing redress where appropriate.

The types of data/ monitoring firms could use

Firms could use the following types of data:

- analysis of the use of products and services
- root-cause analysis of complaints
- customer persistency or retention information
- abandoned claim rates, unusually low volumes of claims or declined/successful claims analysis
- first contact resolution rates and average time to resolution
- speed to answer the telephone and average wait times, call abandon rates
- email and digital channel speed to answer
- internal quality assurance
- customer call listening exercises
- satisfaction surveys
- net promoter scores

Key questions for firms

Examples of the type of questions firms can expect to be asked.

- How is customer support is effective at meeting customer needs regardless of the channel used? Does the firm test outcomes across different channels?
- What assessment has the firm made on whether customer support meets the needs of vulnerable customers? What data, MI and customer feedback is being used?
- How has the firm made it so it is at least as easy to switch or leave as it is to buy in the first place?
- How has the firm made it so the quality of any post-sale support is as good as the pre-sale?
- What data, MI and feedback is used to monitor the impact its consumer support is having on customer outcomes? How often is it monitored, and what action is being taken as a result?
- How effective is the monitoring and oversight of outsourced or third-party providers and that they meet the consumer support standards?

WHAT THIS DOES NOT MEAN

The outcome rules do not require:

- providing support to customers via multiple different channels.
- providing support through a particular channel, although firms should respond flexibly to the needs of vulnerable customers.
- a guarantee that consumer support processes will never experience issues or delay.
- streamlining customer journeys to such an extent that they create the risk of consumer harm or remove steps that provide customer benefits.

INTERACTION WITH EXISTING RULES

The Duty is compatible with, but does not replace, existing FCA Handbook rules that set specific requirements for the servicing of customers (e.g. providing information, complaints handling).

SUMMARY

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
Disproportionately focusing point of sale, with little focus or support for after purchase.	Having processes that support throughout the lifecycle, pre, during and after sale.
Streamlining customer journeys as much as possible to maximise sales but to the detriment of effective customer decision making.	Ensure there is appropriate friction in customer journeys to support in making good decisions.
Adding unreasonable additional steps to support processes that deter customers from acting in their interests.	Designing and delivering support in a way that enables customers to realise benefits and act in their interests.
Having ineffective processes and communication to deal with unexpected surges in demand.	Having effective processes and communication to deal with unexpected surges in demand.
Having a rigid approach that doesn't effectively take into account the needs of the customer base, target market or vulnerable customers	Designing and delivering support to meet the needs of customers. Adopting a flexible approach when dealing with vulnerable customers.
Having an ineffective approach to monitoring that fails to identify issues with support processes.	Regularly monitoring support to make sure there are no issues that create unreasonable barriers or cost.

10 CULTURE, GOVERNANCE AND ACCOUNTABILITY

OVERVIEW

The Duty sets a higher expectation for the standard of customer care and for many firms this will require a significant shift in culture and behaviour.

Firms should ensure that customer interests are central to their culture and purpose and embedded throughout the organisation.

The rules require firms to ensure that strategies, governance, leadership, and people policies lead to good customer outcomes. The rules also make clear that customer outcomes is a key lens for important areas, such as Risk and Internal Audit.

A firm's board, or equivalent governing body, should review and approve an assessment of whether the firm is delivering good outcomes which are consistent with the Duty at least annually.

Individual accountability and high standards of personal conduct will ensure that firms are meeting their obligations under the Duty.

WHAT THIS MEANS FOR FIRMS

Culture is critical to delivering good outcomes. There are four drivers of culture, and acting to deliver good outcomes is central to each.

- Purpose: should be consistent with the Duty. Staff should understand how the purpose is relevant to delivering good customer outcomes.
- Leadership: leaders should be competent and accountable and should demonstrate commitment to delivering good customer outcomes.
- People: good outcomes should be reflected in the way in which people are managed and rewarded. They should be trained to be able to deliver good outcomes for customers.
- Governance: controls and key processes should be set up to enable identification when a firm is not delivering good outcomes. There should be a strategy in place to understand and tackle root causes and manage and mitigate poor outcomes.

GOVERNANCE AND ACCOUNTABILITY

The Duty requires firms to act to deliver good outcomes, reflected in strategies, governance, leadership and people policies at all levels. Customer outcomes should be a central focus for risk and internal audit processes. Firms must ensure that staff incentives, performance management frameworks and remuneration structures are designed to be consistent with good outcomes.

The board or equivalent governing body is responsible for ensuring that the Duty is properly embedded and the FCA will hold senior managers accountable through the Senior Managers & Certification Regime (SM&CR).

The FCA expects the board or equivalent governing body to ensure the Duty is being considered in all relevant contexts, such as the impact of governance and remuneration policies on delivering good customer outcomes and that they are a key lens for risk and internal audit functions.

The FCA expect firms to have a champion at board level who, along with the Chair and the CEO, ensures that the Duty is being discussed regularly and raised in all relevant discussions. The champion should be an Independent Non-Executive Director (NED), where possible. For larger organisations, the FCA expect this champion to be at an appropriate level to ensure that the Duty is discussed in a meaningful way. This expectation applies reasonably, so the FCA would not necessarily expect the same level of formality in smaller firms.

Board report

A firm's board, or equivalent governing body, should review and approve an assessment of whether the firm is delivering good outcomes which are consistent with the Duty, at least annually. This should include:

- the results of the monitoring undertaken to assess whether products and services are delivering expected outcomes in line with the Duty
- any evidence of poor outcomes, including whether any group of customers is receiving worse outcomes compared to another group, and an evaluation of the impact and the root cause
- an overview of the actions taken to address any risks or issues
- how the firm's future business strategy is consistent with acting to deliver good outcomes under the Duty

Before signing off the board should agree actions required to address identified risks, or actions required to address poor outcomes experienced by customers and agree whether any changes to the firm's future business strategy are required.

This assessment will be part of the evidence the FCA will use to assess a firm's compliance with the Duty. The FCA expect to be provided on request with the report and the MI that sits behind it.

Key questions for firms

Examples of the type of questions firms can expect to be asked.

- Does the firm's purpose align with its obligations under the Duty? How is it embedded and understood throughout the organisation?
- How does the organisation's culture support the delivery of good outcomes?
- How does the firm ensure individuals throughout the organisation (including those in control and support functions) understand their role in delivering the Duty?
- Are staff empowered and feel safe to challenge and raise issues where they feel the firm might not be acting to deliver good outcomes? Are those challenges listened to, and where necessary, acted on?
- Is the Duty being considered in all relevant discussions such as strategy and remuneration?
- Are customers outcomes a key lens for Risk and Internal Audit?
- How is the firm ensuring that its remuneration and incentive structures drive good customer outcomes?
- Is the organisation prioritising acting to deliver good outcomes for customers? Are there any areas of concern?
- How is the external environment changing, and how will that impact on the organisation's ability to deliver good outcomes?
- Has the firm identified the key risks to its ability to deliver good outcomes and put appropriate mitigants in place?
- How does the firm define good outcomes (over the short, medium and long term) for customers using its products and services?
- What data does the firm have about its customers and how they use its products? Are there any gaps in the data? What steps is the firm taking to address them?
- What outcomes are customers getting? Are they getting good outcomes which align with their reasonable expectations?
- Are certain groups of consumers getting different outcomes, and if so why? What's driving any adverse outcomes?
- What actions is the firm taking to improve outcomes? Who's accountable for this work, what will improvement look like and when will it happen?

SENIOR MANAGERS AND CERTIFICATION REGIME

The FCA expects the focus delivering good outcomes to be at the heart of firms' strategies and objectives. This should be supported by individual accountability and conduct resulting from the Senior Managers & Certification Regime (SM&CR).

The SM&CR establishes clear senior management responsibility for complying with the requirements and standards of the regulatory system and that applies to the Duty.

The Duty imposes expectations across the lifecycle including design, distribution and delivery and each senior manager must take responsibility for the role they can play in delivering compliance with it.

Every senior manager should be clear about what they are responsible and accountable for, and how they are ensuring that the business of the firm complies on an ongoing basis. Senior managers should expect to be asked about the role that they will play in delivering good outcomes when seeking approval or engaging with the Regulator.

The individual conduct rules in the Code of Conduct sourcebook (COCON) set minimum standards of individual behaviour in financial services and apply to almost all employees in a firm except for ancillary staff.

Individual conduct rule 6 reflects the new, higher standard of the Duty, and the behaviour expected of all conduct staff. It requires all conduct rules staff to 'act to deliver good outcomes for retail customers' where the activities of the firm fall within the scope of the Duty.

This individual conduct rule applies to the extent that it is reasonable and proportionate: the scope of a person's job and their seniority may affect the scope of their obligations under the rule. So, the more senior a person is and the more relevant their role is to the Duty, the more we expect from them in delivering good outcomes for customers.

11 MONITORING OUTCOMES

OVERVIEW

A key part of the Duty is assessing, testing, understanding and able to evidence the outcomes. Without this, it will be impossible to know that products and services are working as expected and in a way that is consistent with the Duty.

Firms have to be able to identify poor outcomes and take action to rectify causes of poor outcomes, continuously learning from the focus and awareness that customers experience in practice.

Firms can expect at every stage of the regulatory lifecycle to be asked to demonstrate how their business models, the actions they have taken, and their culture are focused on good customer outcomes. The rules require firms to:

- monitor and regularly review outcomes to ensure that products and services are delivering consistent with the Duty
- identify where customers or groups of customers are not getting good outcomes and understand why
- have processes in place to adapt and change products and services, or policies and practices, to address any risks or issues identified and stop it occurring again in the future

A firm's governing body should review and approve the firm's assessment of whether it is delivering good outcomes for its customers which are consistent with the Duty and agree any action required, at least annually.

WHAT THIS MEANS FOR FIRMS

Identifying relevant sources of data to assess whether the outcomes are consistent with obligations under the Duty. Through monitoring, the FCA would expect firms to:

- identify and manage any risks to good outcomes for customers
- spot where customers are getting poor outcomes and understand the root cause
- have processes in place to adapt and change products and services, or policies and practices, to address any risks or issues as appropriate
- be able to demonstrate how they have identified and addressed issues leading to poor outcomes

The action that firms should take will vary depending on a range of factors. Potential interventions could include:

- adapting, amending or discontinuing a product or service
- adapting product or service design, fees or charges
- making appropriate changes to the firm's operations
- updating customer support processes or distribution channels
- modifying communications to make them more easily comprehensible
- providing redress where customers have suffered harm

The FCA would expect firms to be able to explain how they reached a decision on the most appropriate intervention, demonstrate how it has delivered good outcomes and, if not, what they have done further to address the issue.

A firm's board, or equivalent governing body, should review and approve an assessment of whether the firm is delivering good outcomes for its customers which are consistent with the Duty, at least annually.

The Duty is intended to improve outcomes for all customers, and the FCA expect firm monitoring to identify where groups of customers (such as vulnerable customers or customers who share protected characteristics) get worse outcomes than other customers. The FCA expects firms to have processes in place to investigate the cause(s) and address any problems.

The FCA expect firms to use their judgement and monitor to see whether any distinct groups of customers are receiving worse outcomes than others, including, for example, longstanding customers, customers from a particular geographical region or customers who buy a product through a particular distribution channel.

Where a firm considers that distinct groups of customers receiving different outcomes is compatible with the Duty (an example might be when using risk-based pricing) it would need to be able to evidence this.

WHAT FIRMS SHOULD MONITOR

Firms will need to collect information to monitor outcomes. Firms will need to be able to provide evidence of their monitoring and assessment of the outcomes and any resulting action, on request.

Customer outcomes are broader than the areas covered by the four outcome rules. They also include the overall outcomes that consumers receive when they buy a product or service, or interact with a financial services firm, such as whether they use the products or service as expected, the benefits that they receive, and whether they are incurring harm.

Firms will need to use their judgement to identify relevant sources of data to give them the insights they need to assess whether they are delivering good outcomes.

Firms will need to produce and regularly review MI on outcomes. This MI should be appropriate to:

- the nature, scale and complexity of their business
- the size of the firm
- the products and services offered
- the customer base served

Firms need to develop a strategy to gather the relevant information and data, the expectation is that firms continually review and develop their frameworks.

Firms should develop MI that goes beyond complaints data to gain better insight and assurance on customer outcomes.

In some areas, firms may monitor outcomes for all their customers, such as product usage, while other types of monitoring, such as distributional analysis or file reviews will be based on a risk-based sample.

Some forms of monitoring will be more frequent than others. The expectation is that firms gather and review customer support data, transaction data and complaints data on an ongoing basis whereas file reviews, sludge audits and focus groups are more likely to be carried out at regular intervals or on an ad hoc basis.

The requirement to monitor does not interfere with the requirement to comply with the relevant data protection legislation.

There is no prescribed format for the way in which firms evidence their monitoring of customer outcomes, but the FCA expect firms to maintain records so that they can be provided on request.

Firms should maintain records of issues identified and the action taken to address those issues. Firms need to be able to explain how they reached a decision on the right intervention, and to demonstrate how the intervention has delivered better consumer outcomes (and, if not, what they have done further to address the issue).

Where firms are outsourcing firms are responsible and accountable for all the regulatory responsibilities applying to outsourcing and third-party arrangements.

THE TYPES OF DATA/INFORMATION FIRMS COULD USE

The type of information firms use will vary depending on their size, client base, and the types of products or services they offer. Firms should tailor the information to these factors, ensuring that they have sufficient information to be able to identify whether they are delivering good customer outcomes.

Types of information firms may want to collect include:

- Business persistence: analysis of customer retention records and why customers leave. This may flag where poor treatment is contributing to high customer turnover.
- Distribution of products/pricing and fees and charges: review of whether certain groups of customers are more likely to buy certain products, incur particular fees and charges, or appear to be receiving outcomes that are not as good as other groups of customers.
- Behavioural insights:
 - customer interactions and drop off rates
 - the use of different communications channels
 - consumer testing of user interfaces and the design such as websites and apps
 - the results of such testing, e.g. whether consumers changed their behaviour as a result of the design.

This would include consumer testing of any gamification elements in the user interface and design of apps. This may flag where firms need to improve policies, processes and systems (e.g. where there are barriers to consumer engagement or understanding).

- Training and competence records: records of staff training, including remedial actions where staff knowledge or actions were found to be below expectations.
- File reviews: reviewing customer files and monitoring calls to check for errors and assess if customers received good outcomes (this is particularly useful for sales processes).
- Customer feedback: using formal and informal feedback from customers to identify trends and areas for improvement (e.g. complaints and comments made to the firm but also comments and complaints on social media).
- Numbers of complaints: trends in numbers of complaints involving poor customer outcomes throughout the customer-firm relationship
- Complaints root cause analysis: investigating complaints fully to understand the cause of customer complaints, not just dealing with the symptoms.
- Results of the regular testing and monitoring required under the outcome rules: many of the four outcomes rules include requirements for firms to monitor and review over time. The results of these reviews, together with any action taken would be relevant for consideration of whether the outcomes are being followed.
- Feedback from other parties in the distribution chain sharing information about the way in which products are sold, and the extent to which actual sales matched the target market.
- Compliance reports: review compliance reports to check if standards are being met in terms of good outcomes for consumers.
- Researching or testing customer experiences through processes such as mystery shopping, auditing customer journeys, focus groups and deep dives, or working with consumer organisations to gain insight into the needs and experiences of consumers.
- Allowing staff to feedback honestly when they think products or services, or the processes used to deliver them, could be improved.
- Reviewing whether processes and policies are effective in delivering good outcomes for customers.
- Drawing on external sources of data about consumer outcomes. The Financial Lives survey, for example, contains granular data about the financial lives of different groups.

When considering which information to collect, firms should consider how that information will enable them to assess whether certain groups of consumers, such as vulnerability or shared protected characteristics, are receiving worse outcomes.

Monitoring outcomes for consumers with characteristics of vulnerability and protected characteristics

Firms should produce and regularly review MI on the outcomes they are delivering for vulnerable customers. MI should be of sufficient quality and depth for firms to be able to identify which products and processes are working well, and which might be causing detriment and need changing.

Firms should support staff to identify vulnerability and set up systems and processes that enable customers to disclose their needs if they choose to. This should enable firms to capture information about vulnerability. It is highly unlikely that firms will be able to meet the needs of all of their customers if they are not capturing such information.

There is a range of ways that firms can gain insight for customers who share protected characteristics, without requiring customers to disclose this information. For example:

- Conducting research into the experiences and needs of a particular group of customers. For example focus groups with older customers or a deep dive into their specific needs.
- Working with a consumer organisation that represents a particular group of consumers.
- An audit of customer journeys could identify differences in experience or frictions that affect certain groups of customers but not others.
- Draw on the diversity of their staff. For example, a network of staff with a particular sexual orientation could provide insight into the experiences that this group has when dealing with financial services.
- The use proxy data to infer outcomes experienced by different groups of customers. For example, it may be possible for firms to use customer name and post code as a proxy for ethnicity in certain circumstances. Firms would need to carefully manage any risks and be mindful of their data protection obligations when using proxy data.

The FCA expect firms to be proactive when evidence emerges that consumers who share protected characteristic are disproportionately experiencing harm or are vulnerable to harm. The FCA expect firms to consider this evidence, review their relevant conduct and assure themselves that they are complying with the requirements of the Duty and obligations under the Equality Act 2010 or equivalent legislation.

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