

## **Consultation Paper** **CP23/1\***

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Insurance guidance for the support  
of customers in financial difficulty

**January 2023**

## How to respond

We are asking for comments on this Consultation Paper (CP) by **11 March 2023**.

You can send them to us using the form on our [website](#).

Or in writing to:

Toby Stubbs  
Financial Conduct Authority  
12 Endeavour Square London  
E20 1JN

**Telephone:**  
020 7066 6524

**Email:**  
[cp23-1@fca.org.uk](mailto:cp23-1@fca.org.uk)



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## Chapter 1

# Summary

### Why we are consulting

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- 1.1** In November 2020, we introduced finalised guidance for insurance and premium finance firms to support customers in financial difficulty (Covid guidance) due to the coronavirus pandemic. We are now consulting on replacing the insurance aspects of this Covid guidance with guidance extended to apply to all customers in financial difficulty, rather than just those in financial difficulty due to the pandemic. This is particularly important as the number of customers in financial difficulty has increased in recent years. Our 2022 Financial Lives Survey found that the number of UK adults with low financial resilience increased from 10.7 million in 2020 to 12.9 million in 2022. We will consider the premium finance aspects of our Covid guidance (including forbearance) as part of a separate consultation on the future of our Covid Tailored Support Guidance (TSG) for mortgages, consumer credit and overdrafts.
- 1.2** This consultation sets out our proposals to help protect customers of non-investment insurance policies in financial difficulty and to provide clearer expectations of firms in supporting their customers. We consider that our proposals will help ensure firms put customers' needs first and will support firms in acting to deliver good outcomes for customers as will be required under our Consumer Duty.

### Who this applies to

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- 1.3** This consultation primarily affects insurers and insurance intermediaries. It will also be relevant to premium finance firms and stakeholders with an interest in general insurance and protection, as well as consumers in financial difficulty and consumer representatives, including but not limited to:
- premium finance firms
  - consumers in financial difficulty
  - consumer representative bodies
  - charities and other organisations with a particular interest in insurance and customers in financial difficulty
  - trade bodies representing insurance firms

### What we want to change

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- 1.4** We are proposing to expand the scope of the insurance aspects of the Covid Guidance to cover all customers in financial difficulty, regardless of the reason for being so. Our proposed guidance will supersede the insurance parts of our Covid guidance.

- 1.5** As for the Covid guidance, our proposed guidance sets out trigger points where firms should take action and sets expectations on firms about actions they should consider to support customers. These expectations will help firms meet their obligations under ICOBS 2.5.-1R (the Customer's Best Interests rule) and PRIN 12 (which come into force from July 2023, along with our other Consumer Duty rules and guidance) acting to deliver good outcomes for customers. Firms will still need to consider what obligations they have to their customers under our rules for Principle 12, along with other Consumer Duty rules and guidance set out at PRIN 2A and elsewhere in our Handbook.
- 1.6** Our intervention will give firms clearer expectations on supporting and acting to deliver good outcomes for customers in financial difficulty. The aim of the guidance is to reduce the impact of financial difficulty on customers, help them maintain an appropriate level of insurance they can afford, and reduce the risk of customers losing appropriate insurance cover that is important to them.

## Measuring success

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- 1.7** As part of our ongoing supervision of firms we will monitor intelligence, feedback and complaints we receive about the guidance, including from consumers. We also intend to engage with stakeholders such as trade bodies and consumer organisations about the impact of our intervention.

## Next steps

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- 1.8** We welcome feedback on our proposals, including the draft Handbook text in Appendix 1. Please send us your comments by 11 March 2023.
- 1.9** We will consider the feedback and aim to publish a final Policy Statement, including our response to feedback, in Q2 2023. If the guidance is made we intend to bring it into force on 31 July 2023.

## Chapter 2

# The wider context

## The harm we are trying to reduce

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- 2.1** The last few years have been challenging for many households and businesses with the impact of the pandemic and, more recently, increases in the cost of living putting pressure on spending. The rising cost of living disproportionately hits the poorest households, who are more likely to pay for their insurance by monthly instalments and often pay higher premiums. Our strategic plan for the cost of living focuses on key areas, including making our expectations of firms clear and enabling customers to make good decisions.
- 2.2** Our Financial Lives Survey, conducted earlier this year, found that 1 in 4 UK adults had low financial resilience. These consumers are either in financial difficulty or could quickly find themselves in difficulty if they suffer a financial shock. There are signs that many more people may struggle, with 60% of adults in 2022 (increased from 50% in 2020) finding it a heavy burden or somewhat of a burden to keep up with their bills.
- 2.3** We have taken steps to help improve support for customers and to make it clearer to firms how they can support them, including those in financial difficulty. This included our 2021 guidance on the fair treatment of vulnerable consumers and, in July 2022, the published rules and guidance for our Consumer Duty.
- 2.4** In November 2020, we introduced finalised Covid guidance for insurance and premium finance firms to support customers in financial difficulty due to the exceptional circumstances of the pandemic. This Covid guidance built on existing high-level FCA rules including:
- a.** Principle 6 ('A firm must pay due regard to the interests of its customers and treat them fairly')
  - b.** Principle 7 ('A firm must pay due regard to the information needs of its clients, and communicate information in a way which is clear, fair and not misleading')
  - c.** ICOBS 2.5-1 R ('A firm must act honestly, fairly and professionally in accordance with the best interests of its customer')
  - d.** CONC 7 (Arrears, default and recovery (including repossessions))
- 2.5** In September 2022, we sent a Dear CEO letter setting out our expectations of firms in the insurance sector in relation to the cost of living. This included providing appropriate support to customers in financial difficulty, including consideration of our Covid guidance. We also stated that some actions under that guidance may also be relevant for the treatment of consumers in financial difficulty due to cost of living pressures. The letter also covered other expectations such as ensuring customers get access to fair value products and that insurers handle claims promptly and fairly.
- 2.6** Replacing our Covid guidance with guidance extended to cover all customers in financial difficulty will provide more clarity to firms in supporting customers and complying with

our rules. The proposed guidance sets out our views on what firms should consider to comply with our Consumer Duty rules, and, in particular, Principle 12 which sets out that firms must act to deliver good outcomes for customers. Principle 12 will replace existing Principles 6 and 7 for conduct within the scope of the Consumer Duty.

- 2.7** Our proposals in this consultation, set out in Chapter 3, will set expectations on firms to help deliver good outcomes to customers in financial difficulty, help those customers maintain an appropriate level of insurance they can afford and reduce the risk of the customer losing appropriate insurance cover that is important to them. This is particularly important as we have seen the levels of insurance product ownership decrease between 2020 and 2022. The number of adults without a general insurance product has risen from 6.3 million to 8.6 million during this period, although this decrease was partly due to reductions in travel insurance following the pandemic. There have been proportionally higher reductions in general insurance holding among certain groups of customers, such as consumers with characteristics of vulnerability. For example, our Financial Lives Survey found that the proportion of adults with low financial resilience holding any general insurance products reduced from 77% to 73% between 2020 and 2022. We know many firms will already have systems and processes in place to provide support to customers in financial difficulty.

## Other context

- 2.8** Our Consumer Duty rules and guidance come into force in July 2023, for products and services that are still being sold to retail customers. These rules and guidance set higher expectations for the standard of care firms give consumers. These include requirements for firms to support and meet the needs of their customers, including those with characteristics of vulnerability, at every stage of the customer journey and to act to deliver good outcomes for them (Principle 12).
- 2.9** Under the Consumer Duty, firms are required to act in good faith towards retail customers, avoid causing foreseeable harm and enable and support retail customers to pursue their financial objectives.
- 2.10** Our 2021 guidance on the fair treatment of vulnerable consumers set expectations for firms to understand the needs of consumers with vulnerable characteristics and to help ensure they are treating these customers fairly. Practical action set out in the guidance included setting up systems and processes in a way to support vulnerable consumers and being able to spot signs of vulnerability, delivering appropriate customers service that responds flexibly to the needs of vulnerable consumers.

## How it links to our objectives

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### Consumer protection

- 2.11** Our proposed guidance will help provide better and more consistent protection for insurance customers in financial difficulty across the non-investment insurance market, with firms expected to consider actions to support customers and take into account their circumstances.

## Market integrity

- 2.12** We expect the proposed guidance will improve confidence in the insurance sector.

## Equality and diversity considerations

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- 2.13** We have considered the equality and diversity issues that may arise from the proposals in this Consultation Paper.
- 2.14** Overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010. But we will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when making the final rules.
- 2.15** In the meantime, we welcome your input to this consultation on this.

## Chapter 3

# Our Proposals

- 3.1** This chapter sets out our proposals to replace the insurance aspects of the Covid guidance, and introduce guidance extended to apply to all customers in financial difficulty. As set out in Chapter 1, this consultation covers the insurance aspects of the Covid guidance. It does not cover the premium finance aspects, which we will consider as part of a separate consultation.
- 3.2** Our guidance will help firms identify the types of actions they should be considering in providing support to customers in financial difficulty. This will give firms more clarity and provide better protection for customers in financial difficulty, regardless of which insurance firms they have bought their cover from.
- 3.3** The key elements of the guidance are:
- a.** purpose
  - b.** scope
  - c.** when should firms act?
  - d.** actions firms should consider
  - e.** signposting

## Purpose

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- 3.4** We propose bringing this guidance into our Handbook, within ICOBS 2 (General matters), building on ICOBS 2.5.-1R (the Customer's best interests rule) as well as Principle 12. We propose that the purpose of the guidance is to support firms to act to deliver good outcomes for customers experiencing financial difficulty. Firms should provide customers with the support that is appropriate given the characteristics of the customer.
- 3.5** Where firms have identified a customer in financial difficulty it should consider what options it can offer when acting to deliver good outcomes and provide the customer with good outcomes focussed support that is appropriate given the characteristics of the customer. The aim is to:
- a.** reduce the impact of the financial difficulty experienced on the customer
  - b.** enable the customer to maintain an appropriate level of insurance that the customer can afford, and
  - c.** reduce the risk of the customer losing appropriate insurance cover that is important to them
- 3.6** The level of support needed may be different for customers who have characteristics of vulnerability and firms should take particular care to ensure they act to deliver good outcomes for those customers.



**Q1: Do you agree the proposed purpose of the guidance? If not, how should we change it?**

## Scope

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- 3.7** We propose that the guidance applies to all firms subject to ICOBS and relates to both retail and commercial customers of non-investment insurance policies. This is consistent with the approach in the Consumer Duty, but is broader than our Covid guidance which only applied to eligible complainants in DISP 2.7.3 R (which included natural persons and small business customers). When meeting their obligations under our rules, firms should also consider whether they need to take into account any wider obligations or duties that their customers may owe to others that could be relevant to the insurance contract being proposed or in place. For example, whether the arrangements include others who may gain a benefit from the policy, such as where a property owner could owe duties to leaseholders or others in relation to the policy.
- 3.8** We propose that the guidance covers all customers in financial difficulty regardless of the reason for it. This is a change to the approach in the Covid guidance which was restricted to customers in financial difficulty because of the pandemic. We consider that it is appropriate to broaden the scope to cover all customers in financial difficulty. This approach will provide more holistic support for a wider range of customers in financial difficulty and make it simpler or easier for firms to identify which customers the guidance applies to. We understand that certain firms applied the Covid guidance to all customers they identified as being in financial difficulty, regardless of the reasons for being so.

**Q2: Do you agree with our proposed scope? If not, how should we change it?**

## When should firms act?

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- 3.9** We recognise that firms will not be able to identify all their customers in financial difficulty.
- 3.10** We propose to retain the main trigger point from the Covid guidance, ie when a customer contacts the firm because they are in financial difficulty, including where they are having difficulty making their insurance payments, or where they want to reduce or change their cover because of their financial difficulty.
- 3.11** Where customers do not contact their firms, we propose that where a firm has identified that a customer is in or likely to be in financial difficulty it should take reasonable steps to make the customer aware of, and help them understand, the support available. Indicators of financial difficulty could include missed payments, requested cancellation of insurance cover that is important to the customer and circumstances where staff have identified that a customer may be struggling. In circumstances where these indicators are identified with a customer with characteristics of vulnerability, our [2021](#)

guidance for firms on the fair treatment of vulnerable customers is also relevant. That guidance set expectations around ensuring staff have the right skills and capability to recognise and respond to the needs of customers with characteristics of vulnerability, as well as monitoring and assessing whether firms are meeting those needs. Furthermore, under the Consumer Duty (PRIN 2A.6.2 R (1)) firms must design consumer support that meets the needs of its customers, including those with characteristics of vulnerability.

**3.12** We propose to retain the expectation in our Covid guidance that firms should not cancel insurance policies solely because of non-payment without first considering actions to support customers who may be in financial difficulty.

**3.13** We consider that the approach outlined above, coupled with our proposed guidance around signposting set out below, will help customers who most need support, when they need it. In addition, our approach will avoid creating an undue burden on firms to identify all customers in financial difficulty, where firms could not reasonably be expected to have known about such difficulty.

**Q3: Do you agree with our proposals about when firms should act? If not, what should the trigger points be?**

## Actions firms should consider

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**3.14** Where firms have identified customers in financial difficulty, they will need to consider how they will support them and meet their obligations under our rules. This includes under ICOBS 2.5.-1R, Principle 12 and wider rules under the Consumer Duty. Depending on the circumstances, this could include consideration of a single product to a more holistic approach, taking into account all the products a customer has with the firm.

**3.15** We propose that the list of actions that firms should consider, include:

- a.** Reassessing the risk profile of the customer. A customer's risk profile may have changed since purchasing the policy. This should include consideration of whether the customer's circumstances have changed as a result of financial difficulty and customers could potentially be offered a lower premium. For example, a motor insurance customer may have reduced their vehicle use or a struggling customer with contents insurance may have sold items covered under their insurance.
- b.** Considering whether there are other products the firm can offer that would provide appropriate cover at a price the customer can afford and revising the cover accordingly. This should include considering the financial objectives of customers, identifying where cover could be reduced or products removed. For example, a customer may no longer have a need for certain add-ons which they bought alongside a core motor or home policy. In another example, a customer in financial difficulty may be looking to switch to a cheaper product, and firms enabling this would help the customer reach their financial objective.
- c.** Adjusting cover to take account of the financial change in the customer's circumstances. This could be done on a short term basis (affecting a period within

the policy cover period) or for the longer term (affecting the remainder of the policy cover period).

- d.** Working with customers to avoid the need to cancel cover that is important to them. This could include actions as part of a), b) and c) above or, depending on the circumstances, other actions such as, providing temporary forbearance where customers pay by instalments and which do not involve the provision of regulated consumer credit or providing further information on the potential impact of cancellation. For example, a customer who doesn't understand the medical element of their travel insurance policy may choose to cancel their policy and travel uninsured and risk facing unaffordable medical costs. Firms should work with customers to help them understand the potential consequences of cancelling cover that is important to them.
- e.** Where actions from a), b), c) and d) above result in a customer's policy being adjusted or cancelled, firms should consider whether it is appropriate to require the customer to pay all the contractual fees or charges associated with the changes, in circumstances where not relying on these contractual provisions would be needed to provide fair treatment in the customer's best interests.

**3.16** The actions listed above are not a complete list, and there may be other or alternative actions that might be appropriate based on the circumstances. In certain limited circumstances it may be appropriate to offer a temporary pause or moratorium on cover as an alternative to cancellation. An example would be a product covering an existing medical condition where the customer would find it more difficult or expensive, following cancellation, to find new cover that covered that medical condition. Examples of other actions firms have applied to support customers include extending cancellation cycles, allowing customers to pay excesses flexibly over an extended period or making accelerated claim pay-outs.

**3.17** We also propose that where a firm provides options to a customer it should ensure they have an appropriate level of information about the options, in good time and in an understandable format, to enable the customer to make an informed decision. Depending on the circumstances, this could include information such as changes to the insurance cover, the effect of the changes, effect on premiums, the risk of being uninsured (if they cancel), the duration of any temporary change and any fees associated with the options.

**3.18** For actions covering a shorter term period (ie less than the remaining policy cover period) we propose to include guidance that firms should take reasonable steps to ensure they reassess the customer's situation when that temporary period comes to an end, to avoid the risk of underinsurance. As set out in our Covid guidance, firms could do this by introducing an expiration date for any changes to a policy, contacting the customer towards the end of the temporary period and encouraging customers to contact the firm if their circumstances have changed in the interim.

**3.19** Taking action to support customers will help avoid causing foreseeable harm, and enable and support retail customers to pursue their financial objectives. This is particularly important for firms with ongoing relationships with a customer. FG22/5 (non-handbook guidance on the Consumer Duty) sets out that where a firm has an ongoing relationship with a customer relating to an ongoing product the firm would need to act to avoid

causing foreseeable harm throughout the product lifecycle and the firm's relationship with the customer.

**3.20** Under the Consumer Duty, firms must have processes in place to avoid causing foreseeable harm to customers (including those in financial difficulty) and must act to deliver good outcomes. Firms should also be aware that anyone can become vulnerable, either temporarily or permanently, so they should be alive to the changing needs of their customers. Firms must also regularly monitor the outcomes retail customers receive, including from the firm's customer support function. This monitoring must enable firms to identify whether any group of retail customers is getting worse outcomes compared to another group and, if so, firms must take appropriate action to address the situation.

**Q4: Do you agree with our proposals covering actions firms should consider? If not, what actions or types of actions should be in the guidance?**

## Signposting to customers in financial difficulty

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**3.21** We propose taking forward parts of our Covid guidance around signposting. We propose that firms should take reasonable steps to make customers aware of, and help them understand the support available in the event they experience financial difficulty, and also to allow those customers to easily contact the firm. This includes, but is not limited to:

- a.** sufficiently prominent information on the firm's general communications, such as on the firm's website, software applications, telephone recorded messages and other channels of communication
- b.** sufficiently prominent information in particular communications to customers which could be relevant to potential financial difficulties, such as communications to customers about missed payments, and
- c.** making it easier for customers to contact them when they need help, by considering the different communication needs of customers (e.g. those needing to communicate through channels other than via electronic means)

**3.22** We do not propose to take forward the part of the Covid guidance that sets out that firms should make clear the different available options in their general communications. We consider that the options will depend on the circumstances and will not necessarily be the same for all customers in financial difficulty.

**Q5: Do you agree with our proposals for firms' signposting with customers in financial difficulty? If not, what expectations around communications should we be setting?**

## Premium finance

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**3.23** As set out in Chapter 1, we will consider the premium finance parts of the Covid Guidance as part of a separate consultation. Ahead of that consultation, and as set out in the Dear CEO letter we published in September 2022, we expect firms to continue to provide appropriate support and to consider our Covid guidance. They should note that some actions under the Covid guidance, including for premium finance, may also be relevant for the treatment of consumers in financial difficulty due to cost of living pressures.

## Annex 1

### Questions in this paper

- Q1:** Do you agree with our proposed purpose of the guidance? If not, how should we change it?
- Q2:** Do you agree with our proposed scope? If not, how should we change it?
- Q3:** Do you agree with our proposals about when firms should act? If not, what should the trigger points be?
- Q4:** Do you agree with our proposals covering actions firms should consider? If not, what actions or types of actions should be in the guidance?
- Q5:** Do you agree with our proposals for firms' signposting with customers in financial difficulty? If not, what expectations around communications should we be setting?
- Q6:** Do you have any comments on our cost benefit analysis?

## Annex 2

# Cost benefit analysis

## Introduction

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1. There is no statutory requirement in the Financial Services and Markets Act 2000 for a cost benefit analysis (CBA) on Guidance. However, we are required to have regard to our regulatory principles, including the need to act proportionately and transparently. In the feedback to our Covid guidance consultation, we set out that if we sought to broaden the application of the guidance beyond the exceptional circumstances arising out of the pandemic, we would consult, including a cost-benefit analysis.
2. This analysis presents estimates of the significant impacts of our proposals. For most impacts set out below we do not believe it is reasonably practicable to provide monetary values. For other impacts, we provide estimates of outcomes in other dimensions. Our proposals are based on weighing up these multiple dimensions and reaching a judgement about the appropriate level of consumer protection, taking into account all the other impacts we foresee.

## Problem and rationale for our intervention

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3. In recent years many households have faced significant financial challenges both with the pandemic and, more recently, with the cost of living price rises. We have taken steps to help protect customers who may be struggling. Our interventions include, but are not limited to:
  - a. October 2020 – Covid guidance for insurance and premium finance for customers in financial difficulty
  - b. February 2021 – Guidance for the treatment of vulnerable consumers
  - c. July 2022 – Publication of our Consumer Duty rules and guidance
  - d. September 2022 – Publication of our insurance Cost of Living Dear CEO letter
4. Our Covid guidance (applicable in the exceptional circumstances of the pandemic), set expectations for the treatment of insurance and premium finance customers in financial difficulty. We consider there is a case for updating the insurance aspects of the Covid guidance to cover all customers in financial difficulty more generally rather than just in relation to the pandemic, to continue to ensure that firms are providing appropriate support to their customers in financial difficulty.
5. Data from our Financial Lives Survey showed that the proportion of UK adults with low financial resilience increased from 10.7m in February 2020 to 12.9m in May 2022. In addition, insurance product ownership has decreased for consumers with low financial resilience. For example, the proportion of consumers with low financial resilience holding

a contents insurance policy fell significantly from 47% in 2020 to 41% in 2022. We also identified that there were signs that many more people may struggle financially.

## Our proposed intervention, impacts and costs

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6. Our proposed guidance sets expectations on firms about:
  - a. when firms should take action to support customers in financial difficulty;
  - b. actions firms should consider to support customers in financial difficulty; and
  - c. Signposting and communicating with customers, including those that have missed insurance payments
7. Overall, we do not expect our intervention will have a significant additional impact on insurance firms. Our proposed guidance retains some of the insurance provisions and expectations contained in our Covid guidance and is consistent with the expectations relating to customers in financial difficulty set in the Dear CEO letter we published in September 2022. Even without our proposed guidance, firms should already take similar actions for customers, to comply with our existing high-level rules and Principles (including Principles 6 and 7) as well as actions to comply with Principle 12 (when the Consumer Duty comes into force). These include acting honestly, fairly and professionally in accordance with the best interests of the customer and requirements under the Consumer Duty for firms to act to deliver good outcomes for customers. This would likely result in firms taking similar actions to the actions in our proposed guidance, and as set out in Chapter 3 some firms already took steps to apply the Covid guidance more widely to all customers in financial difficulty. Certain firms have indicated that they have provided help to many of their customers, as part of their efforts to support customers in financial difficulty. We do not consider it is reasonably practicable to produce an estimate of the benefits.
8. Notwithstanding the above, the key benefits of our proposed guidance are to:
  - a. Provide greater clarity to firms about how they can comply with our rules and better support customers in financial difficulty and act to deliver good outcomes. This should ensure customers in financial difficulty get more consistent support across the market, regardless of which firms they have relationships with. There will be a qualitative benefit to firms having greater clarity about our expectations.
  - b. Add helpful detail about ways firms can comply with our rules providing our supervision and enforcement teams with tools to engage with firms about their conduct in the insurance sector.
  - c. Set wider expectations of how we expect firms to support customers in financial difficulty (not just in the specific circumstances related to Covid-19). This will reduce the risk that customers have to cancel insurance that is important to them and which could exacerbate their financial difficulty, and provide better protection.

### Costs

9. Overall, while we expect costs for firms to be of minimal significance, we recognise that firms will incur familiarisation costs in considering our proposed guidance.



## Familiarisation costs

10. In total, we expect there are around 38 large firms, 166 medium sized firms and 3,900 small firms and other distributors of insurance that may be affected by our package of the proposals.
11. We are using our standard approach to estimating familiarisation costs. We anticipate that there will be approximately 10 pages of policy documentation with which firms will need to familiarise themselves.
12. Assuming that there are 300 words per page and a reading speed of 100 words per minute, it would take around 0.5 hours to read the policy documentation. We have assumed that 3 compliance staff at large firms, 2 at medium firms and 1 compliance staff at small firms will read the document. Finally, the hourly compliance staff salary is assumed to be £62 at large firms, £65 at medium firms and £47 at small firms, including overheads. Using these assumptions we expect total one-off industry-wide familiarisation costs of approximately £106,000.
13. We also expect firms will undertake a legal review of the guidance against current practices. We, again, use standard assumptions to estimate these costs. There are around 5 pages of legal instrument to review. We have assumed that 2 legal staff at large firms and medium firms and 1 legal staff at small firms, will review the legal instrument. It is further assumed that each legal staff member will review 5 pages of legal text in 2.8 hours at large groups and in 2.1 hours in medium firms and 0.7 hours in small firms. The hourly legal staff salary is assumed to be £72 at large and medium firms and £57 at small firms, including 30% overheads. Using these assumptions we expect total one-off industry-wide legal review costs of approximately £221,000.
14. In total we estimate one-off familiarisation and legal review costs of £327,000.

**Q6: Do you have any comments on our cost benefit analysis?**

## Annex 3

# Compatibility statement

## Compliance with legal requirements

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1. This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).
2. Section 1B(1) FSMA requires that the FCA, when discharging its general functions, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, and its general duty under s. 1B(5)(a) FSMA to have regard to the regulatory principles in s. 3B FSMA. The FCA also needs, so far as is compatible with acting in a way that advances the consumer protection objective or the integrity objective, to carry out its general functions in a way that promotes effective competition in the interests of consumers. We consider the guidance advances, in particular, our consumer protection objective setting out our expectations for firms to act to deliver good outcomes for customers in financial difficulty.
3. This Annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (s. 1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.
4. In addition, this Annex explains how we have considered the recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of His Majesty's Government to which we should have regard in connection with our general duties.
5. Under the Legislative and Regulatory Reform Act 2006 (LRRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRRA.

## The FCA's objectives and regulatory principles: Compatibility statement

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6. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of protecting consumers. In this consultation we set out that our proposed guidance will help provide better and more consistent protection for insurance

customers in financial difficulty across the insurance market, with firms considering actions to support customers and taking into account their circumstances. The FCA has in this consultation had regard to the 8 matters listed in s.1C(2)(a)-(h) FSMA on consumer protection, such as the general principle that those providing regulated financial services should be expected to provide consumers with a level of care that is appropriate. Our proposals are also relevant to the FCA's objective of maintaining market integrity, including the orderly operation of the insurance sector.

7. We consider these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well because they help provide clarity to firms about how they can support insurance customers in financial difficulty, resulting in more consistent support for these customers across the market and reduce the risk that customers are uninsured or underinsured. For the purposes of the FCA's strategic objective, "relevant markets" are defined by s. 1F FSMA.
8. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s. 3B FSMA. The relevant regulatory principles are considered below.

### **The need to use our resources in the most efficient and economic way**

9. We have taken forward parts of our previous Covid guidance, as well as building on our customer's best interest rule and Principle 12. This consistency of approach has helped develop our proposals in an efficient and economic way, and will assist supervision in their activities and engagement with firms regarding the guidance.

### **The principle that a burden or restriction should be proportionate to the benefits**

10. Annex 2 sets out our cost benefit analysis, considering both the costs and benefits of our proposed guidance.

### **The general principle that consumers should take responsibility for their decisions**

11. Our proposed guidance is consistent with other parts of ICOBS around the provision of information to enable customers make informed decisions, but does not remove responsibility of consumers.

### **The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation**

12. Our proposals do not discriminate between different business models and are intended to improve consistency of support for customers in financial difficulty. We do not consider that supporting these customers will affect firms in different ways, although any impacts will depend on the role of firms and the nature of their relationship with customers.

## **The principle that we should exercise of our functions as transparently as possible**

- 13.** There are similarities between this guidance and the predecessor Covid guidance which was published in October 2020. We signposted in our September Dear CEO letter that we were considering options for updating our Covid guidance. We have reached out to trade bodies and asked for input from firms about the impact of the Covid guidance. This consultation will provide an opportunity for stakeholders and interested parties to provide feedback on our proposals.
- 14.** In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s. 1B(5)(b) FSMA). We do not consider that this is relevant to our proposed guidance.

## **Expected effect on mutual societies**

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- 15.** The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies.

## **Compatibility with the duty to promote effective competition in the interests of consumers**

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- 16.** In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers. We do not believe that the proposed changes will have an impact on competition. The changes are expected to impose costs of minimal significance on firms and do not affect firms' incentives or ability to compete in the market.

## **Equality and diversity**

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- 17.** We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, to and foster good relations between people who share a protected characteristic and those who do not.
- 18.** As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. The outcome of our consideration in relation to these matters in this case is stated in paragraph 2.14 of the Consultation Paper.

## Legislative and Regulatory Reform Act 2006 (LRRRA)

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- 19.** We have had regard to the principles in the LRRRA for the parts of the proposals that consist of general policies, principles or guidance and consider that our proposals are:
- transparent – we are consulting on our proposed guidance
  - accountable – stakeholders have an opportunity to feedback on our proposals
  - proportionate – we consider our proposals are proportionate, build on previous guidance and expectations we have previously set. We expect costs to be of minimal significance
  - consistent – our proposed guidance will help clarify to firms about how to support customers in financial difficulty. This should result in more consistent support for these customers across the market.
  - targeted only at cases in which action is needed – our intervention seeks to help firms support customers in financial difficulty.
- 20.** We have had regard to the Regulators' Code for the parts of the proposals that consist of general policies, principles or guidance. We consider that the proposals will be effective in helping firms understand and meet regulatory requirements more easily, in a manner that leads to improved outcomes for customers in financial difficulty.

## Annex 4

# Abbreviations used in this paper

Abbreviation	Description
<b>CBA</b>	Cost benefit analysis
<b>CEO</b>	Chief Executive Officer
<b>CONC</b>	The Consumer Credit Sourcebook of the FCA Handbook
<b>CP</b>	Consultation Paper
<b>DISP</b>	The Dispute Resolution: Complaints Sourcebook of the FCA Handbook
<b>FCA</b>	Financial Conduct Authority
<b>FG</b>	Finalised Guidance
<b>FSMA</b>	Financial Services and Markets Act, 2000
<b>ICOBS</b>	The Insurance Conduct of Business Sourcebook of the FCA Handbook
<b>PROD</b>	The Product Intervention and Product Governance Sourcebook of the FCA Handbook
<b>TSC</b>	Tailored Support Guidance

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

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# Appendix 1

## Draft Handbook text



**INSURANCE: CONDUCT OF BUSINESS SOURCEBOOK (CUSTOMERS IN FINANCIAL DIFFICULTY) INSTRUMENT 2023**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137T (General supplementary powers); and
  - (2) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on [31 July 2023, immediately after the commencement of the Consumer Duty Instrument 2022 (FCA 2022/31)].

**Amendments to the Handbook**

- D. The Insurance: Conduct of Business sourcebook (ICOBS) is amended in accordance with the Annex to this instrument.

**Citation**

- E. This instrument may be cited as the Insurance: Conduct of Business Sourcebook (Customers in Financial Difficulty) Instrument 2023.

By order of the Board  
[date]

## Annex

### Amendments to the Insurance: Conduct of Business sourcebook (ICOBS)

In this annex, all of the text is new and is not underlined.

Insert the following new section, ICOBS 2.7, after ICOBS 2.6 (Distribution of connected contracts through exempt persons).

#### 2.7 Customers in financial difficulty

##### Purpose

- 2.7.1 G The purpose of the *guidance* in this section is to give the *FCA*'s view on the outcomes *firms* should aim to achieve and actions they should take to deliver good outcomes for *customers* experiencing financial difficulties.
- 2.7.2 G The *guidance* complements:
- (1) *Principle* 12, which requires *firms* to act to deliver good outcomes for *retail customers*;
  - (2) the obligations in *PRIN* 2A (the Consumer Duty), including in particular the *rules* in *PRIN* 2A.2 (cross-cutting obligations), *PRIN* 2A.5 relating to communication, interacting on a one-to-one basis and adapting communication, *PRIN* 2A.6 (Consumer Duty: retail customer outcome on consumer support) and expected standards in *PRIN* 2A.7; and
  - (3) the *customer's best interests rule*.

However, it is not, and does not seek to be, a complete exposition of all of a *firm's* responsibilities to *customers* experiencing financial difficulties, nor does it alter replace or substitute applicable *rules*, *guidance*, or law, including those in relation to credit agreements.

##### Outcomes firms should aim to achieve

- 2.7.3 G Where a *firm* identifies a *customer* in financial difficulty, the *firm* should:
- (1) provide the *customer* with good outcomes-focused support that is appropriate given the needs and characteristics of the *customer* to:
    - (a) reduce the impact of the financial difficulty on the *customer*;
    - (b) enable the *customer* to maintain an appropriate level of insurance that the *customer* can afford; and

- (c) reduce, as far as reasonably possible, the risk of the *customer* losing appropriate insurance cover that is important to the *customer*;
  - (2) ensure the *customer* has an appropriate level of information about the option or options available to them in good time and in an understandable format to enable the *customer* to make an informed decision.
- 2.7.4 G *Firms* are reminded that the level of support needed for *customers* who have characteristics of vulnerability may be different from that for others; *firms* should take particular care to ensure they act to deliver good outcomes for those *customers*.
- 2.7.5 G When considering outcomes, *firms* should also consider:
  - (1) the purpose of the *policy* and the interests of all *policyholders*; and
  - (2) whether there are any relevant duties or obligations the *customers* may owe to others in connection with the *policy* that should be taken into account. For example, where a property owner may be subject to a duty to leaseholders and others around adequate insurance cover being in place for the property.

#### Signposting to customers

- 2.7.6 G *Firms* should take reasonable steps to make *customers* aware of, and help them to understand, the support available to them in the event that they experience financial difficulty, and also to allow those *customers* to easily contact the *firm*. This includes, but is not limited to:
  - (1) including sufficiently prominent information:
    - (a) on the *firm's* general communications, including the *firm's* website, software applications (app), letters, telephone recorded messages and other channels of communication;
    - (b) in communications to *customers* which could be relevant to potential financial difficulties experienced by the *customers*, for example in communications to *customers* about missed payments;
  - (2) making it easier for *customers* to contact them when they need help by considering the different communication needs of *customers* (for example, those needing to communicate through channels other than via electronic means, such as websites, webchats and email).
- 2.7.7 G Where the *firm* has reason to believe that the *customer* is, or is likely to be, experiencing financial difficulty, the *firm* should take reasonable steps to make the *customer* aware of, and help them to understand, the

support available (whether or not a *customer* has contacted the *firm* in relation to their financial difficulty).

#### Identifying customers experiencing financial difficulty

- 2.7.8 G There are a number of circumstances in which *firms* may have reason to believe that a *customer* is, or is likely to be, experiencing financial difficulty. In particular, *firms* should include consideration of circumstances where:
- (1) *customers* contact the *firm*:
    - (a) wanting to reduce their insurance cover (whether having paid in full or on a monthly basis); and/or
    - (b) asking about their insurance cover in a manner that indicates they may have financial difficulties, or about *premium* payments, including where they have difficulty paying the *premium*;
  - (2) *customers* have missed payments, even where they have not contacted the *firm* about possible financial difficulties. A *firm* should not cancel a *customer's policy* solely because of missed payments without first considering options to support the *customer*;
  - (3) there are other indications (whether the *customer* has contacted the *firm* directly or not) that the *customer* is, or is likely to be, experiencing financial difficulty (for example, where the *customer* has requested cancellation of insurance cover that is important to the *customer*).

#### Options firms should consider

- 2.7.9 G Options which *firms* should consider to ensure they meet the relevant obligations under the *rules* including to act to deliver good outcomes (which may be used in combination with each other) include:
- (1) whether there are other products that provide an appropriate level of insurance cover for the *customer* at a price the *customer* can afford and revise the existing cover accordingly;
  - (2) adjusting cover to take account of the change in the *customer's* financial circumstances. This could be done on a short-term basis (affecting a period within the *policy* cover period) or for the longer term (affecting the entirety of the remainder of the *policy* cover period);
  - (3) working with *customers* to help them avoid the need to cancel cover that is important to them;

- (4) re-assessing the risk profile of the *customer*. It might be that some *customers'* risk profiles have changed since purchasing the *policy* and *customers* could potentially be offered lower *premiums*; and
  - (5) considering whether it is appropriate to require the *customer* to pay all contractual fees or charges in circumstances where the *firm* not relying on these contractual provisions would be needed to provide fair treatment in the *customer's* best interests.
- 2.7.10 G For shorter-term adjustments, *firms* should take reasonable steps to ensure that they re-assess the *customer's* situation when that short-term period comes to an end to ensure the *customer* continues to have an appropriate level of insurance. For example, by introducing an expiry date for any changes to a *policy* and reviewing the situation on expiry, or by inviting *customers* to contact the *firm* when their financial circumstances have improved sufficiently.
- 2.7.11 G Depending on the circumstances, options could range from consideration of a single *policy* to a more holistic approach considering all the *policies* a *customer* has with the *firm*. *Firms* should consider if it is appropriate to take steps for all *policies* that the *customer* holds with the *firm*.
- 2.7.12 G When setting out the options available to a *customer*, *firms* should include an appropriate level of information about each option, including:
- (1) where the option includes possible changes to insurance cover or to a different *policy*, what the possible changes are, the effect of the changes on the *customer*, the period of time the changes might apply for, the main exclusions where claims would no longer be able to be made and the change in the costs to the *customer* or to their payment plan;
  - (2) the effect on *premiums* paid and still due, and on any interest owed; and
  - (3) any cancellation or adjustment fees and charges associated with the options.
- 2.7.13 G *Firms* are reminded that other *rules* in *ICOBS*, for example those relating to specifying the demands and needs of the *customer* (*ICOBS* 5.2.1R), the appropriate information *rule* which applies at all of the different stages of a contract (*ICOBS* 6.1.5R), and renewal (*ICOBS* 6.5) may also be relevant to the *firm* in relation to the options available to the *customer*.

