

## **Finalised Guidance**

FG22/5 Final non-Handbook Guidance  
for firms on the Consumer Duty

July 2022

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# 1 Introduction

- 1.1** The Consumer Duty ('the Duty') sets the standard of care that firms should give to customers in retail financial markets.
- 1.2** It sets expectations that can apply flexibly and dynamically to new products, services and business models as they continue to emerge and develop in a changing and increasingly digital environment. So, it better protects consumers from current and new/emerging drivers of harm, and gives firms more certainty of our expectations to support innovation, competition and new ways of serving customers.
- 1.3** The Duty is comprised of the following components.
- A **Consumer Principle** which reflects the overall standard of behaviour we want from firms and which is defined further by the other elements of the Consumer Duty.
  - The '**cross-cutting rules**' which:
    - develop our expectations for behaviour through three overarching requirements that explain how firms should act to deliver good outcomes and apply across all areas of firm conduct
    - inform and help firms interpret the four outcomes
  - The '**four outcomes**' which are a suite of rules and guidance setting more detailed expectations for firm conduct in four areas that represent key elements of the firm-consumer relationship:
    - the governance of products and services
    - price and value
    - consumer understanding, and
    - consumer support
- 1.4** The Consumer Duty is underpinned by the concept of reasonableness. This is an objective test and means that the rules and guidance must be interpreted in line with the standard that could reasonably be expected of a prudent firm:
- carrying on the same activity in relation to the same product or service, and
  - with the necessary understanding of the needs and characteristics of the customers in the relevant target market
- 1.5** What is expected of firms under the Duty will be interpreted in light of what is reasonable given the circumstances, including:
- the nature of the product or service being offered or provided (for example the risk of harm to customers)
  - the characteristics of the retail customer(s) (for example their degree of financial capability)
  - the firm's role in relation to the product or service (including the firm's role in the distribution chain)
- 1.6** 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. One question all firms can ask themselves is whether they are applying the same standards and capabilities to delivering good customer outcomes as they are to generating sales and revenue in comparable areas. For example:

- are communications focused on supporting customers as clear as those used to sell the product?
- is the quality of any post-sale support as good as the pre-sale support?

**1.7** Firms should consider whether they may be carrying out the same activities to a higher standard or more quickly when it benefits the firm, than when it benefits the customer.

**1.8** Where relevant, we have included further guidance on this in later chapters of this document (the 'Guidance').

## Our expectations of firms under the Duty

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**1.9** Firms should:

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

## This Guidance

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**1.10** We are issuing this Guidance under section 139A of the Financial Services and Markets Act 2000. It provides further guidance to firms on how they should comply with their obligations under the new Consumer Duty as set out in Principle 12 and PRIN 2A.

- 1.11** This Guidance does not replace or substitute other applicable rules, guidance or law and does not require firms to act in a way that is incompatible with any legal or regulatory requirements.
- 1.12** The Duty applies across retail financial services and the Guidance reflects that. We have used a range of good and poor practice examples to illustrate the types of behaviours we do, and do not, expect firms to adopt to meet expectations under the Duty and deliver good outcomes for customers. But it is not possible to provide examples for all sectors or products on every issue.
- The examples are illustrative and therefore unlikely to reflect the full range of facts applicable to a particular scenario in practice. So, in some cases, it may be reasonable to expect firms to do more to deliver good outcomes for customers. We will consider all relevant information to determine if firms have met their obligations under the Duty.
  - Some of the examples cite particular types of firms, sectors or products. This does not necessarily mean that they are not relevant to other types of firms, sectors or products. Firms should review all examples in this guidance and consider how they may be relevant to their business models and practices.
- 1.13** In each of the outcome chapters, we set out examples of the types of questions firms can expect to be asked by us about how they are delivering the Duty. Firms should use these types of questions to guide their internal discussions at all levels, including at the board or equivalent governing body.

## Definitions

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- 1.14** In this Guidance, we generally use 'consumer' when talking about the wider group of those who use financial services and 'customer' when talking about an individual firm's customers or potential customers. However, both mean retail customers who are within the scope of the Duty and this Guidance. The Duty applies to potential as well as actual customers of firms. See Chapter 2 on scope for further details.
- 1.15** Throughout this Guidance we use:
- **must:** where an action is required by a Principle or rule
  - **should:** where we think a firm ought to consider a course of action (not specified in a Principle or rule) to comply with a Principle or rule, but this does not necessarily mean they must follow a detailed or prescribed course of action
  - **may or could:** where an action is only one of several ways of complying with a Principle or rule

## How the Duty fits with other regulatory requirements in the Handbook

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- 1.16** As always, firms will need to consider what they are required to do not only under the Principles but under other applicable rules. The Principles now include Principle 12, the new Consumer Principle, as well as the cross-cutting rules and outcome rules.

- 1.17** Firms must also consider rules in relevant sectoral conduct of business sourcebooks.
- 1.18** In certain instances, meeting existing obligations will be enough to demonstrate compliance with the products and services or the fair value outcome rules. We discuss the interaction with existing rules in more detail in later chapters.

## Interaction with Handbook and non-Handbook material under Principles 6 and 7

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- 1.19** Principles 6 and 7 do not apply where Principle 12 applies.
- 1.20** The Handbook contains both rules and guidance which refer to Principles 6 and 7, or which set out what we expect under Principles 6 and 7. This is also the case for non-Handbook guidance.
- 1.21** Guidance in the Handbook (PRIN 2A.1.17G) explains how firms can interpret these references. It explains that:
- Principle 12 imposes a higher and more exacting standard of conduct than Principles 6 and 7
  - Principle 12 also has a broader application than Principles 6 and 7 in relation to a firm's retail market business with a greater focus on consumer protection outcomes for retail customers, irrespective of whether they stand in a client relationship with the firm
  - while existing guidance on Principles 6 and 7 will remain relevant to firms in considering their obligations under the Consumer Duty, firms should take account of the inherent limits of such guidance as they do not cover our expectations under the Duty in full
  - failure to act in accordance with existing guidance on Principles 6 and 7 which would have amounted to a breach of those Principles, is likely to breach Principle 12
  - where a firm is acting in accordance with guidance on Principles 6 and 7, this alone should not be relied upon in considering how to comply with Principle 12
  - firms continue to need to consider all their obligations not only under the Principles but under any other applicable law (for example the Equality Act 2010 or equivalent legislation and the Payment Services Regulations 2017)
- 1.22** While existing Handbook and non-Handbook guidance and material on Principles 6 and 7 therefore continue to apply for the purposes of, and may go some way to demonstrating compliance with, the Duty, this will not be enough for firms to be certain they have fully met our expectations under the Duty. Firms will therefore need to consider what further action is needed to meet new obligations under the Duty.

## Interaction with our Guidance on consumers in vulnerable circumstances and work on diversity and inclusion

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- 1.23** The Duty raises the standard of care afforded to all consumers, while our guidance on the fair treatment of vulnerable customers (FG 21/1) sets out what firms should do to ensure that customers in vulnerable circumstances experience outcomes as good as those for other consumers.

- 1.24** FG 21/1 therefore remains relevant for firms, and firms should refer to it for further information on our expectations.
- 1.25** Where the Duty rules specifically reference customers with characteristics of vulnerability, they do so in a way that is consistent with and informed by our guidance on the fair treatment of vulnerable customers.
- 1.26** Consumers in vulnerable circumstances may have additional needs or be at greater risk of harm if things go wrong. For this reason, the Duty makes explicit reference to firms paying attention to the needs of customers with characteristics of vulnerability.
- 1.27** We expect consumers with characteristics of vulnerability to benefit from the overall improvements in outcomes delivered as a result of the new Duty. There can be many reasons why a firm's conduct or business model results in different outcomes for different groups of customers. However, we expect firms to be able to identify when particular groups of customers, such as customers with characteristics of vulnerability or customers who share specific protected characteristics, under the Equality Act 2010 or equivalent legislation, receive systematically poorer outcomes. This may indicate that the firm is not meeting the Duty for those groups or is breaching its legal responsibilities.
- 1.28** The Duty also supports existing legal requirements, such as those in the Equality Act 2010, by requiring firms to monitor whether any group of retail customers is experiencing different outcomes than other customers and take appropriate action where they do. We also remind firms of their existing legal obligations under the Equality Act.
- 1.29** The Duty is also aligned with and supportive of our work on diversity and inclusion more broadly. We see a diverse and inclusive industry as central to achieving the outcomes we expect in financial services. Diversity of thought and inclusive behaviours in financial services will help to deliver better consumer and market outcomes including fair value, fair treatment, suitability, confidence and access.
- 1.30** We also see the Duty as complementary to our follow up work to our discussion paper on diversity and inclusion in the financial sector, (DP 21/2). Our follow up work is expected to focus on diversity and inclusion among firms' workforces, while the Duty focuses on firms' relationship with their customers, but both are designed to drive better outcomes for consumers.

## **Interaction with other (non-FSMA) regulatory requirements**

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- 1.31** The Duty does not replace other requirements. Firms will also need to consider any other applicable law. This will include, but is not limited to:
- consumer protection legislation, such as the Consumer Rights Act 2015 and the Consumer Protection from Unfair Trading Regulations 2008
  - data protection regulation, such as the General Data Protection Regulation (the GDPR) and the Data Protection Act 2018 (the DPA 2018)
  - equalities legislation, such as the Equality Act 2010 or equivalent legislation, for example in Northern Ireland

## 2 Scope of the Consumer Duty

### Overview

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- 2.1** The Duty applies to the regulated activities and ancillary activities of all firms authorised under the Financial Services and Markets Act 2000 (FSMA), the Payment Services Regulations 2017 (PSRs) and E-money Regulations 2011 (EMRs), in respect of products and services for prospective and actual retail customers.
- 2.2** This chapter sets out guidance on the definition of a 'retail customer' and on the application of the Duty to:
- the distribution chain
  - wholesale markets
  - firms dealing with customers, products or services outside the UK
  - unregulated activities

### Retail customer scope

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- 2.3** The Duty applies to products and services offered to 'retail customers'. The retail customer definition aligns broadly with the scope of our Handbook or relevant regulations in each sector. For example:
- For consumer credit, the Duty applies to all regulated credit-related activities.
  - For deposit-taking activities, the Duty applies to 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, the Duty applies to business conducted with a customer who is not a professional client, as set out in the Conduct of Business Sourcebook (COBS).
  - For mortgages, the Duty follows the position in the Mortgage Conduct Business Sourcebook (MCOB). The Duty therefore applies to all regulated mortgage contracts within the perimeter but not, for example, unregulated buy-to-let contracts or commercial lending. 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, the Duty applies to business conducted with consumers, micro-enterprises and small charities (where the definitions of these terms are the same as for deposit takers, as noted above).

- 2.4** Where we already regulate and apply protections to the provision of financial services to small and medium enterprises (SMEs), the Duty applies to firms dealing with them, in line with the approach in existing sourcebooks.
- 2.5** The Duty applies to firms dealing with prospective as well as actual customers. In general, firms only deal with consumers with whom they have a contract but firms will not always be dealing with someone who is already an actual customer. For example:
- when approving or communicating a financial promotion
  - when answering a question from a prospective customer
  - where a prospective customer applies for a product or service
- 2.6** In some instances, this might also include customers who are declined a product or service. Firms would need to consider the Duty when declining to take on a prospective customer, for example in relation to their communications or customer support.
- 2.7** The Duty applies across all of a firm's activities, from high-level strategic planning to individual customer interactions.
- 2.8** Sometimes the Duty means that firms should think about their customers collectively. For example, when a firm is designing a product, considering price and value or developing its communications or customer service approach, it should consider the needs of its customer base and target market.
- 2.9** At other times, the Duty will have an impact on the way firms deal with individual customers. For example, when communicating with an individual customer, rather than communicating with multiple customers, firms should pay appropriate regard to the needs and characteristics of that customer.
- 2.10** In relation to investments, the Duty does not apply to customers who elect to be treated as professional clients under COBS. It does, however, apply to the process a firm uses to determine a client's status. A firm that encourages a customer to seek a 'professional client' classification simply 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.
- 2.11** Principles 6 and 7, and related Handbook material, continue to apply (where they did previously) to firms in respect of customers or transactions out of scope of the Duty, including customers outside the scope of sectoral rules, as set out above. This includes SMEs outside the scope of the Duty (but which are covered by Principles 6 and 7).

## How the Duty applies across the distribution chain

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- 2.12** The Duty applies across the distribution chain, from product and service origination through to distribution and post-sale activities. By the 'distribution chain', we mean all firms involved in the manufacture, provision, sale and ongoing administration and management of a product or service to the end retail customer.

- 2.13** The Duty applies to all firms that have a material influence over, or determine, retail customer outcomes. For example, it applies to firms that can influence material aspects of, or determine:
- the design or operation of retail products or services, including their price and value
  - the distribution of retail products or services
  - preparing and approving communications that are to be issued to retail customers, or
  - engaging in customer support for retail customers
- 2.14** A firm will be able to determine or have material influence where it makes or influences decisions over any of the above. We would generally expect firms with a decision-making role for one or more of the four customer outcomes to have greatest responsibility under the Duty.
- 2.15** Whether a material influence exists would depend on the extent to which a firm is in practice exercising discretion over customer outcomes. A material influence would not include, for example, 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, where that client is entirely independent of the manager. For instance, this might be the case where a portfolio manager is managing part of the portfolio of a defined benefit pension scheme. It is unlikely to be the case where the portfolio manager is managing the assets of an investment company and, while technically independent of the investment company, has, for example, a material influence on the design, branding and promotion of the product.
  - Providing factual information to support the work of another firm in the chain.
  - Providing IT systems.
- 2.16** Where it applies, the extent of a firm's responsibilities under the Duty will depend 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.
- 2.17** Firms that can determine or materially influence retail customer outcomes need to consider the end customers in the distribution chain, whether or not they are a direct client of the firm. This includes beneficiaries of trust-based pension schemes where the FCA authorised firm's client may be the trustee.

### **Example – payments**

In the payments sector, the Duty applies across the distribution chain and will apply to all payment services providers where their activities can determine or have a material influence over retail customer outcomes.

Distribution chains may look different from other sectors. For example, a distribution chain may include an e-money issuer and agents and distributors that carry out activities on behalf of the issuer. The issuer may design the product or service that is then distributed by agents or distributors. It is the

issuer's responsibility to ensure that agents and distributors comply with the Duty when providing services on behalf of the issuer.

Another example of a firm in a distribution chain in the payment sector may be the credit institution that safeguards the funds of payment or e-money institutions. Similarly, a payment chain may include payment initiation service providers in addition to the account providers executing the payments. It may also include acquirers to the extent that their activities determine or have a material influence over retail customer outcomes.

- 2.18** The Duty imposes new obligations on firms acting under the 'agent as client' rules in COBS 2.4. 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. Where this is the case, firms must comply with the Duty. For example, when developing a target market, ensuring products or services are designed to meet their needs and objectives, or assessing value for a product or service, a firm needs to consider the end retail customers in the distribution chain, even if it does not have a direct customer relationship with them. Firms can, however, continue to apply the 'agent as client' rules in relation to other requirements. For example, a discretionary wealth manager may continue to treat financial advisers as their client for the purpose of assessing proposed transactions under the suitability requirements.
- 2.19** A firm that is remote from the retail customer, with no direct customer relationship, may have more limited obligations. For example a fund manager working with the board of an investment trust may have a material influence over product design and other matters, but the ultimate decisions may be taken by the board. The firm should, where reasonably practicable, comply with the Duty within the context of its role. For example, it could discuss any concerns it has with the board.
- 2.20** A firm that has more of a key role – for instance by determining a product's charges or terms and conditions – would have more significant obligations. If a firm's actions, or failure to act, carries a direct risk of consumer harm, the Duty would be relevant to more of their actions. 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 – investment products**

Several different firms are involved in the manufacture and distribution of an investment product and can determine or materially influence customer outcomes. These often include a fund manager, a platform provider, and a financial adviser.

Each firm has a responsibility commensurate to its role in the distribution chain and the degree to which it can determine or materially influence retail customer outcomes. The actual level of responsibility relates to what their real role is, rather than just what is set out in contractual terms between firms in the chain.

All firms subject to the Duty must act to deliver good outcomes to customers and comply with the cross-cutting rules. Each has a role to help avoid causing

foreseeable harm and ensure that the final product and associated support will help the customer realise their financial objectives. Each firm 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:** The firm must develop a fund to meet the needs, characteristics and objectives of a target market of customers. It must develop an appropriate distribution strategy and set charges to provide fair value to customers. The firm must also 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:** As a manufacturer, the firm must develop the platform, including decisions over the range of investments it provides, to meet the needs and characteristics of a target market. It must set charges to ensure that its service provides fair value. As a distributor of the fund, the platform 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 advisory services (where relevant). This includes, for example, 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. In this example, the fund manager and platform provider are more likely to have a focus on the target market rather than on individual customers under the Duty.

In addition, the adviser can often also have the clearest oversight of the customer's overall position and an overview of the total proposition. In this instance, 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. The firm should also consider 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

**2.21** 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.

**2.22** We recognise that distribution chains for retail market business can be long and complicated. This 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. We expect firms to do what is reasonable. For example:

- It may be that a manufacturer firm has some information about the end customers from some sources. For instance, a firm may make some direct sales of a product and could use the information it does have.
- It may be that some manufacturers have no knowledge of the end distributor or end customers. Some fund managers for example, 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. For example, it may be possible to send a periodic survey to distributors, or ask the next firm in the chain for relevant information, including the identity of other firms in the chain or sales information. 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 in the distribution chain should consider the impact such firms could have on customer outcomes. There have in the past, for example, been problems with unregulated introducers or advisers encouraging customers to invest money in speculative ventures or unregulated investments. Regulated firms should consider whether including an unregulated entity in the distribution chain leads to too great a risk of poor outcomes. Where they decide to work with an unregulated entity, firms should consider whether it is necessary to introduce additional steps to guard against risks materialising. For example, they could consider further due diligence or monitoring.

## Liability

**2.23** Unless there are regulatory requirements or contracts require it, firms are responsible only for their own activities and do not need to oversee the actions of other firms in the distribution chain.

**2.24** Situations in which firms need to consider actions by other firms include, for example:

- Where firms outsource activities to third parties, they remain responsible for compliance under the Senior Management Arrangements, Systems and Controls sourcebook (SYSC). They should also consider the Duty when deciding to outsource activities. For example, a firm should consider if outsourcing customer servicing could have a negative impact for customers.
- In line with guidance on the use of third-party tools to fulfil part of their own obligations under our rules, 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, discussed further in Chapter 6, and the price and value outcome, discussed in Chapter 7, firms must have regard to the wider distribution chain for products and services. 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 their appointed representatives, as set out in the Supervision sourcebook (SUP), 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, as set out in the EMRs and the PSRs. We expect them to have appropriate systems and controls in place to oversee their agents' and distributors' activities effectively. As part of this, they should comply with the Duty.

### **Example – consumer credit**

A lender manufactures a point-of-sale lending product. A third party distributes the credit product alongside retail customers purchases of goods such as furniture and electronics.

The lender is not responsible for ensuring that the third party is fully compliant with the Duty.

If, in subsequent product reviews, the lender finds its loans are not being distributed in accordance with the intended distribution strategy and target market, it must take appropriate action to mitigate the situation and prevent any further harm. It could, for example, consider amending the distribution strategy or providing additional information to the third party.

- 2.25** Where firms have multiple legal entities in a group structure, we do not expect firms to duplicate work, for example, that could be better handled centrally. Each regulated entity would ultimately be responsible for ensuring it complies with the Duty for its business.

### **Dealing with disagreements among firms in the distribution chain**

- 2.26** As the Duty applies to firms through the distribution chain, there may be situations in which firms disagree as to the best way in which to provide good customer outcomes.
- 2.27** A firm identifying consumer harm elsewhere in the chain must raise the concerns with other relevant parties. It must also notify the FCA where it becomes aware that another firm in the distribution chain may not be complying with the Duty. Depending on the issues involved, this might be the only action a firm needs to take.
- 2.28** Where the firms involved are co-manufacturers of a product or service, they must have a written agreement outlining their respective roles and responsibilities. This agreement should help clarify which firm is responsible for deciding a particular issue.

### **Application to the wholesale market**

- 2.29** As noted above, the Duty applies to all firms that can determine or have a material influence over retail customer outcomes. This could include firms in the wholesale market, even if they do not have a direct relationship with retail customers.

- 2.30** For example, an investment bank that designs a structured product for sale to retail customers would be subject to the Duty. On the other hand, an investment bank providing wholesale instruments that a third-party firm independently uses as component parts of a retail product would not.
- 2.31** Similarly, 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.
- 2.32** 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.
- 2.33** Although benchmark administration activities are not within scope of the Duty, benchmarks have an important role in the financial market ecosystem. This includes being used in products within the scope of the Duty. In this case, the Duty may apply to other firms in the distribution chain of such products. We therefore encourage benchmark administrators to bear this in mind in considering how they conduct their own business.
- 2.34** For the avoidance of doubt, we also confirm that:
- Credit rating agencies are not within scope of the Duty. Credit rating agencies issue credit ratings which are opinions of the creditworthiness of an entity, a debt or financial obligation, debt security, preferred share or other financial instrument, or of an issuer of such a debt or financial obligation, debt security, preferred share or other financial instrument, issued using an established and defined ranking system of rating categories.
  - Institutions such as recognised investment exchanges, recognised clearing houses, settlement systems and trade repositories would not be subject to the Duty where they are not authorised persons subject to our regulation. 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

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- 2.35** Only firms conducting regulated activities in the UK are within our regulatory remit and, so, subject to the Duty.

- 2.36** Where the distribution chain involves firms in Gibraltar selling products or services to UK retail customers, the Duty still applies. It applies to those firms whether they have an establishment in the UK or operate on a cross-border basis.
- 2.37** In the future, a new permanent legislative framework – the Gibraltar Authorisation Regime (GAR) – will be established. This will enable UK market access for specified Gibraltar-based financial services firms if they intend to carry on approved activities in the UK. It is expected that Gibraltar’s regulation of firms under the GAR would be aligned with the UK approach. Once the rules are aligned, we will review the position and propose to rely on the Gibraltar Financial Services Commission (GFSC) regulation of firms in Gibraltar under those rules.
- 2.38** The Duty also applies to firms in the temporary permissions regime following the UK’s withdrawal from the EU. The UK left the EU on 31 January 2020 and the temporary permissions regime allows European Economic Area (EEA) firms to continue operating in the UK within the scope of their permissions for a limited period, while seeking full UK authorisation, if necessary. The Duty applies to these firms, whether they are doing regulated business from an establishment in the UK or on a cross-border services basis. The Duty also applies to firms in supervised run-off under the financial services existing contracts regime.
- 2.39** We recognise that risks remain for UK retail customers if the distribution chain involves other parties outside the UK that are not subject to equivalent requirements. To help manage this risk, UK distributors of non-UK products and services must take all reasonable steps to understand the product or service, the target market it would serve and the value it provides in order to ensure it will be distributed appropriately. Regulated firms should also consider whether including a firm that is not subject to the Duty in the distribution chain leads to a risk of poor customer outcomes.
- 2.40** For firms dealing with non-UK customers, the Duty applies in the same way as existing sectoral Sourcebooks or other sectoral rules or guidance. Where the chain includes non-UK distributors, which are not subject to the Duty, UK manufacturers may not be able to obtain relevant information from them. In this case, UK firms should consider what is reasonable in the circumstances to gather information. For example, they could use any information that they do have available to support their work, but they would not be expected to obtain information from firms that are not subject to the Duty.

## How this applies to unregulated activities

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- 2.41** The Duty only applies within the FCA’s regulatory perimeter, so will not apply to unregulated business. It does not, for example, apply to credit products outside our remit, such as unregulated business lending.
- 2.42** However, the Duty applies to authorised firms conducting ancillary activities. These are unregulated activities in connection with, or held out for the purposes of, regulated activities, or in connection with the provision of payment services or the issuing of electronic money.
- 2.43** Whether an activity which is unregulated is carried on in connection with a regulated activity, payment service or the issuing of electronic money, or is held out for the purposes of a regulated activity, will depend on the facts. It is likely that activities which

are necessary for the completion of a regulated activity will be ancillary to that activity. For example, the design of a product or service, and ongoing customer support services, are not themselves regulated activities. They are, however, necessary activities linked to regulated activities.

**2.44** Ancillary activities would not cover, for example a broker selling boiler insurance and an unregulated routine service plan to the same customer. Where two separate contracts are arranged at the same time and completion of the regulated activity does not depend on sale of the unregulated product, the latter is not regarded as an ancillary activity.

## 3 Application to products and services sold before the Consumer Duty comes into force

### Overview

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- 3.1** The Duty does not have a retrospective effect and does not apply to past actions by firms. Actions taken before the Duty comes into force are subject to the rules that applied at the time.
- 3.2** However, the Duty does apply, on a forward-looking basis, to:
- existing products and services – these are products and services still on sale to new customers or available for renewal by existing customers
  - closed book products and services – these are products and services that are no longer on sale to new customers or available for renewal by existing customers

### Review of existing products and services

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- 3.3** Firms need to comply with the Duty in full for existing products or services. They must review products or services against all aspects of the Duty before the end of the implementation period and on an ongoing basis.
- 3.4** If firms identify issues with an existing product or service, these need to be addressed before they can sell it to new customers. This might mean a firm needs to take action, including updating the contractual terms and conditions of a product or service before it can be sold to new customers.
- 3.5** Firms will also need to consider how to address any harm to customers with existing contracts, as set out below in the sections on assessing fair value and on actions to address potential harm.

### Review of closed products and services

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- 3.6** The Duty also applies in full to closed products and services. However, the products and services outcome does not apply in the same way as for new or existing products and services. For example, as there would be no further sales, there are no requirements for firms to have a target market or distribution strategy for the product or service.

**3.7** We still expect firms to review closed products and services under the Duty. This includes:

- Reviewing the product or service during the implementation period, and on an ongoing basis, under the cross-cutting rules. Firms should identify whether there are aspects of the design of the product or service which mean they are not meeting these rules. For example, they should consider if any aspect of the product or service could lead to foreseeable harm or frustrate customers pursuing their financial objectives. Where they identify that aspects of the design could cause the product or service to breach the cross-cutting rules, they should take appropriate action to mitigate harm.
- Ensuring products continue to offer fair value under the price value outcome rules.
- Ensuring they meet the consumer understanding and consumer support outcomes in respect of these customers.

**3.8** When reviewing closed books, firms could consider:

- Carrying out an initial review first. For example, firms might want to consider what aspects led to the decision to close the product or service, to see if that has a bearing on customer outcomes. If a product was closed because it offered poor value compared to newer products, this is clearly a factor to consider.
- Prioritising review of products or services with higher risk of consumer harm. For example, if a firm has received complaints about a product, such as in relation to price and value, it could focus on that product.
- Incorporating a review of the elements of the Duty into existing and ongoing review cycles, so long as they meet the implementation deadlines for compliance with the Duty.
- Grouping similar products and services together for review. For example, firms may be able to:
  - analyse cohorts of products or services together, or
  - more quickly conclude, for instance, that more recent closed book products or services (which are similar to those still on sale) provide fair value going forward.

By 'similar products and services' we mean those products and services that are intended to meet similar customer needs and where the customer base is similar. Firms should consider if it is appropriate to group the products or services in question. They should consider if the customer base, complexity and risk of consumer harm are sufficiently similar. Firms should not group products or services where they are aware of any issue that could impair their ability to assess that product or service adequately.

**3.9** Firms will also need to consider how to address any harm to customers in these products and services, as set out below in the sections on assessing fair value and on actions to address potential harm.

## Assessing fair value for existing contracts made before the Duty comes into force

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- 3.10** We recognise that the rules under the price and value outcome cannot be so easily applied as other aspects of the Duty to existing contracts made before the Duty comes into force. These rules are linked to the original contractual terms of products and services. These contractual terms may be vested rights.
- 3.11** While the Duty will not infringe vested rights (see the section below), we think it is important that firms consider our overarching expectations under the price and value outcome for their existing and closed products or services. For example, firms should be confident that:
- these products or services do not exploit consumer lack of knowledge and/or behavioural biases to enable unfair prices to be charged
  - complex pricing and terms do not make it harder for customers to assess value
  - there is and remains a reasonable relationship between the price customers pay and the benefits of the product or service
  - they have considered whether significant changes to the benefits of a product or service should affect the price: for example, if a firm reduces the benefits available on a product, it should consider if there should be an accompanying reduction in charges for the product
- 3.12** As we set out in Chapter 7, firms should consider value in the round. A product or service that meets all of the other elements of the Duty (for example, if it is designed to meet the needs of its target market, is transparently sold, customers are able to exercise choices to switch or exit, and are properly supported) is much more likely to offer fair value. This is both because of the benefits customers receive and because they have the information and support they need.
- 3.13** Reviews are only needed at the level of the product or service itself. There is no requirement to review individual existing contracts. For example, firms do not need to repeat their underwriting of customers for insurance or credit purposes. They should be looking at the product or service broadly.
- 3.14** Firms will not be judged under the Duty with the benefit of hindsight. We recognise that market conditions change over time, including economic and demographic assumptions, and firms can take account of the conditions and assumptions that applied at the time a product or service was introduced.
- 3.15** The Duty does not require firms to amend charges going forward for existing customers where assumptions are later found to have proven incorrect. However, where a firm could reasonably be expected to have known, at the time the product or service was purchased, that assumptions were significantly incorrect, firms should consider if they complied with the rules in place at the time.
- 3.16** For existing products and services that remain on sale, firms should review any assumptions that formed the basis of the charging structure to consider if material changes since the product or service was launched should be reflected in the assessment of value for new customers going forward.

- 3.17** In addition, we recognise that products and services may have additional benefits provided in early years, which are covered by costs paid in later years. Firms reviewing existing or closed products or services are able to take account of the benefits provided and costs incurred prior to the Duty coming into force.

## Actions to address potential harm

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- 3.18** Firms acting to address potential harm for existing customers in a product or service, are not expected to give up any vested contractual rights – although they would be free to do so.
- 3.19** For these purposes, vested rights include pre-existing contractual rights to which a firm already has legal entitlement (eg annual fees that are due) and rights to payments falling due on occurrence of a contractually specified event (eg exit charges).
- 3.20** When considering whether expectations under a contract amount to a vested right, a firm should consider the contract length and whether it is freely terminable by either party. We consider that, where a customer can terminate a contract without an exit charge, firms have no more than an expectation of the customer continuing the contract. In this case, the future payment of charges for a product or service by a customer are not vested rights.
- 3.21** Where there is a vested right, firms would need to consider alternate ways to prevent harm for existing customers. Appropriate actions would depend on the context. Firms might be able to take actions that do not require any contractual changes or to make changes to contracts that do not alter vested rights to remuneration or interfere with pre-existing rights to charge an exit fee. Depending on the case, these changes could include, for example, providing greater flexibility on how customers can engage with a product or assisting a customer to switch to a new product or service that does not have the same issues. Firms could also consider enhanced customer support to help customers avoid the risk materialising.
- 3.22** We do not expect firms to move all existing customers onto the latest version of a contract, or to standardise pricing models for all legacy business. Firms should review each product or service, or group of products or services, on its own merits and address any issues they find. So, for example, we do not expect all legacy deposit accounts to offer the same interest rate; instead, firms should check that the interest rate provides fair value in the context of each product.
- 3.23** We recognise that the impact of a remedial action may be different for different groups of customers. For some groups of customers, the costs of remedial action may outweigh the benefits. For example, if a firm were to consider helping customers move to a different product or service, this could carry a tax liability, depending on the circumstances. A firm identifying problems with a product or service for existing customers is not generally expected to make unilateral changes to a contract, unless it is to the benefit of all customers and the firm has the contractual right to make the change. Nor should firms withdraw products or services from the market or individual customers without considering the Duty and the impact this could have on customer outcomes.

## Application of the Duty to firms that purchase a product or service book

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**3.24** Firms can sell a product or service book to another firm to operate. This could happen, for example, where a firm leaves the market but where there are existing contracts that need to be managed.

### Product or service books purchased before the Duty takes effect

**3.25** Firms that purchased product or service books before the Duty takes effect must comply with the Duty. We recognise, however, that, in many cases, purchasers did not develop the products or services and so will not necessarily have all of the relevant information to conduct ongoing reviews under the products and services outcome and the price and value outcome. We would therefore expect these firms to use their best endeavours to meet these requirements.

**3.26** When conducting reviews under the products and services outcome and the price and value outcome, firms could, for example, consider any relevant:

- contact they have had with customers showing problems may exist for any group or groups of customers with characteristics of vulnerability
- complaints from customers that indicate problems with the product or service design and value
- charges, terms and conditions in comparable products or services dating from the same time as the product or service was created
- contingent fees or charges – for example, administrative charges for changes of address, charges for falling into arrears on a loan, or charges for transferring investments – and whether they are reasonable

**3.27** Where the firm was a co-manufacturer, involved in the original design of the product or service, we expect it to have the relevant information and to be able to comply more fully with the Duty.

**3.28** The earlier sections of this chapter are also relevant in describing our expectations when firms review existing contracts.

**3.29** Where a firm makes a significant adaptation to a product or service in a book it has bought, it must follow the relevant rules in the products and services outcome and the price and value outcome, to ensure the change provides good outcomes under the Duty.

### Product or service books purchased after the Duty takes effect

**3.30** Firms considering the sale of a product or service book after the Duty comes into force 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. The information should enable the purchaser to monitor on an ongoing basis if the product or service meets the needs, characteristics and objectives of the target market and offers fair value.

- Firms should comply with data protection and competition laws when sharing this information. We would not generally expect them to share commercially sensitive information.

**3.31** Firms considering the purchase of a product or service book after the Duty comes into force 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.

**3.32** Where a product or service book was originally sold before the Duty came into effect and is being sold once more, firms should follow the approach as for books sold before the Duty came into effect.

## 4 The Consumer Principle

### Overview

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- 4.1** The Consumer Principle, Principle 12, requires firms to 'act to deliver good outcomes for retail customers'.
- 4.2** It sets a higher standard than both:
- Principle 6 – A firm must pay due regard to the interests of its customers and treat them fairly.
  - Principle 7 – A firm must pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading.
- 4.3** Principle 12 reflects the positive and proactive expectations we have of firm conduct, and our desire for firms to think more about customer outcomes and place customers' interests at the heart of their activities.
- 4.4** It should prompt firms to ask themselves questions such as, 'Am I treating my customers as I would expect to be treated in their circumstances?' or, 'Are my customers getting the outcomes from my products and services that they would expect?'.
- 4.5** As we set out in Chapter 2, Principle 12 imposes obligations on firms towards customers of products and services, irrespective of whether the customer is a direct client of the firm.
- 4.6** Firms should consistently challenge themselves to ensure their actions are compatible with customers' interests and financial objectives.
- 4.7** In this chapter, we provide some over-arching guidance on Principle 12, how it should be interpreted, and its relationship with the cross-cutting rules.

### What this means for firms

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- 4.8** Principle 12 focuses on customer outcomes, and requires firms to:
- pro-actively act to deliver good outcomes for customers generally and put customers' interests at the heart of their activities
  - focus on the outcomes customers get, and act in a way that reflects how consumers actually behave and transact in the real world, better enabling them to access and assess relevant information, and to act to pursue their financial objectives
  - ensure they have sufficient understanding of customer behaviour and how products and services function to be able to demonstrate that the outcomes that would reasonably be expected are being achieved by those customers

- where they identify that good outcomes are not being achieved, act to address this by putting in place processes to tackle the factors that are leading to poor outcomes, and
- consistently and regularly challenge themselves to ensure their actions are compatible with delivering good outcomes for customers

**4.9** Firms should embed a focus of acting to deliver good outcomes in each of their business functions and put customer interests at the heart of their business model and culture. This ranges from high-level strategic planning to individual customer interactions, as well as product and service development, sales and servicing, distribution, support, and risk and control functions.

**4.10** Our key expectations of conduct under the Consumer Principle are explained further through the cross-cutting rules set out in PRIN 2A.2. The cross-cutting rules set out how firms should act to deliver good outcomes for customers.

**4.11** The Consumer Principle does not mean that individual customers will always get good outcomes or will always be protected from poor outcomes. It also does not impose an open-ended duty that goes beyond the scope of the firm's role and its ability to determine or influence customer outcomes, or protect customers from all potential harms. For instance, firms are not expected to protect customers from risks that come from the nature of the product (such as investment risk), where they have complied with their obligations under the Duty and have good reason to believe the customer understands and accepts that risk. More guidance is given on this in the following chapter.

**4.12** The Consumer Principle also does not change the nature of a firm's relationship with its customers. For example, it does not create a fiduciary relationship where one would not otherwise exist, nor require a firm to carry out any regulated activity (for example provide advice) where it would not otherwise have done so.

## Reasonable application of the Duty

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**4.13** As set out in Chapter 1, the Duty is underpinned by the concept of reasonableness which is an objective test. The obligations on firms will be interpreted in accordance with the standard that could reasonably be expected of a prudent firm carrying on the same activity in relation to the same product and services, taking appropriate account of the needs and characteristics of customers in the relevant target market.

**4.14** This includes (amongst other things), paying appropriate regard to the nature and scale of characteristics of vulnerability that exist in the relevant target market and the impact of these characteristics on the needs of customers in the target market. When a firm is dealing with a particular customer, it should pay appropriate regard to the needs and characteristics of that customer.

**4.15** We expect firms to focus on the customer outcomes that may result from their actions, considering what a firm knows, or could reasonably be expected to have known, at the relevant time.

**4.16** What is reasonable will depend on a range of factors reflecting a firm's role in the distribution chain and its ability to determine or materially influence the outcomes customers receive. These factors include:

**4.17 The nature of the product or service being offered.** What the firm needs to do will depend on the nature of the product or service being offered or provided, including the following.

- The risk of harm to customers: For example, if a manufacturer is developing a higher risk product, it should take additional care to ensure it meets customers' needs and is targeted and distributed appropriately. There will be types of products (such as those that are higher risk) and types of services that may only be appropriate for certain types of customers or certain customer needs.
- Complexity of the product or service: Customers may find it more difficult to assess the features, suitability or value of more complicated products or services. For example, this could include products with fewer visible risks, such as investments with non-standard charging structures or other features that may not be easy for customers to understand. Firms offering more complex products and services should take extra care to promote, and monitor, customer understanding.
  - For example, firms selling products which are only likely to be appropriate for a narrow target market should design the customer journey to make this clear and equip customers for whom the product is not designed to understand this.
  - Or, firms could introduce 'positive friction' to a sales process for a complex and high-risk product. For instance, they could slow down how quickly transactions are made, perhaps by providing additional information. By requiring customers using an online service to watch a video on the risks, before they can make a transaction, firms could help customers make a properly informed and reasoned decision. While the consumer support outcome aims to reduce unnecessary and harmful barriers ('sludge') that unreasonably restrict a customer from acting in their interests, we recognise that friction can also have a positive function where it is in customers' interests.
- Costs, fees and charges involved with the product or service. For example, complex charging structures with multiple fees or differential pricing may carry greater risk of poor outcomes.
- The relative utility to the customer of the product or service as a whole and of specific features, options, or services within the product or service, if subject to separate fees or charges.

**4.18 The characteristics of customers in the relevant target market.** These characteristics include the following.

- Their resources, degree of financial capability or sophistication and known or reasonably foreseeable characteristics of vulnerability if a firm knows or should reasonably have known about them. For example, the size and type of SME client a firm is dealing with may be relevant to what is required of the firm under the Duty, because it may indicate greater or lesser resources, financial capability or sophistication.
- Their reasonable expectations in relation to the product or service. What the firm needs to do to comply with the Duty will vary depending on what customers in the relevant target market would expect. This would depend for example on the nature and the quality of the product or service. For instance, a service marketed as 'no-frills' would create different expectations from a 'top-end' service. So, a financial

adviser providing holistic financial advice and wealth management on an ongoing basis has a more wide-ranging relationship with customers, including assessment of their financial position and ongoing recommendations as circumstances change, than a firm providing a simple current account which has no non-essential add-ons.

**4.19 The firm's role in relation to the product or service.** This includes the following.

- The firm's relationship with the customers: As previously mentioned, the Duty does not require a firm to assume a fiduciary duty or require an advisory service where it does not already exist.
- Whether the firm has provided or will provide advice to the customers: What steps a firm needs to take may vary where advice is being provided to the customer.
- The firm's role in the distribution chain (including its role in making decisions which determine or materially influence outcomes for customers in relation to the product or service): As explained in Chapter 2, firms throughout the distribution chain have obligations under the Duty. What is reasonable will depend on each firm's role in the distribution chain. Where firms are outsourcing activities to third parties, they should consider the impact this has on customer outcomes.
- The stage in the firm's relationship with the customers: There will be times when customers are particularly exposed to harm, for example when they fall into arrears or are considering long-term investment decisions. The actions a firm needs to take to act reasonably in such circumstances may be greater than when a customer is making decisions which carry a lesser risk of adverse outcomes.

## Consumer and firm responsibility

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- 4.20** The Duty does not remove consumers' responsibility for their choices and decisions. However, consumers can only be expected to take responsibility for their actions when they are able to trust that the range of products and services they choose from are designed to meet their needs, and offer fair value. They need help to understand products and services, and they need confidence that firms will act in a way that helps, rather than hinders, their ability to make decisions in line with their needs and financial objectives.
- 4.21** Under the Duty, firms are responsible for enabling and empowering consumers to take responsibility for their actions and decisions.
- 4.22** Some consumers' low levels of financial capability, financial resilience or confidence in managing their money and finances, coupled with behavioural biases, means regulators cannot set a universal requirement of the degree of responsibility a consumer can be expected to take. 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

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**5.1** The Duty includes three cross-cutting rules which set out how firms should act to deliver good outcomes for retail customers.

**5.2** They require firms to:

- act in good faith towards retail customers
- avoid causing foreseeable harm to retail customers
- enable and support retail customers to pursue their financial objectives

### Relationship between the cross-cutting rules, and with the Consumer Principle

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**5.3** The cross-cutting rules articulate the standards of conduct that we expect under Principle 12. They set out how firms should act (proactively and reactively) to deliver good outcomes for customers. As with the rest of the Duty, they apply both at a target market level and an individual customer level, depending on the situation.

**5.4** The cross-cutting rules work together as a package, and poor conduct will often breach more than one of the cross-cutting rules.

- For example, acting in good faith is a key part of creating an environment in which customers can make decisions in their own interest and pursue their financial objectives. It is also a key part of acting to avoid causing foreseeable harm. If a firm continues to sell a product it knows to be causing harm, it is also likely to be acting in bad faith.
- Similarly, a firm that does not act to avoid causing foreseeable harm is also not likely to be acting to enable and support customers to pursue their financial objectives. For example, where a firm fails to explain the risks of a product to customers, it is unlikely to be acting to avoid causing foreseeable harm or enabling and supporting customers to pursue their financial objectives.

## Relationship between the cross-cutting rules and the four outcomes

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- 5.5** The cross-cutting rules also inform and are supported by the four outcomes which set out more detailed rules in key areas of the customer relationship, including the following points, for example.
- Firms acting in good faith in their interactions and communications with customers is an essential element of complying with the outcome rules on consumer understanding and consumer support.
  - Firms should act to avoid causing foreseeable harm in the way that they design and price products and services and make this a key objective of how they comply with the relevant outcome rules.
  - Providing effective communications that customers can understand, and effective consumer support are an essential way in which firms act to enable and support customers to pursue their financial objectives, by creating the right environment for this.
  - The cross-cutting rules also 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 also 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

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- 5.6** Firms must act in good faith towards customers. This is a standard of conduct characterised by honesty, fair and open dealing, and consistency with the reasonable expectations of customers.
- 5.7** Firms and customers both have a role to play if customers are to achieve good outcomes. However, when consumers deal with financial services firms, there is generally an imbalance in bargaining position, knowledge and expertise. Therefore, consumers can only reasonably be expected to take responsibility for their choices and decisions if firms act openly and with honesty.
- 5.8** As set out in Chapter 4, acting in good faith is a key part of creating an environment in which customers can pursue their financial objectives. It is also a key part of acting to avoid causing foreseeable harm. It supports the other cross-cutting rules by focusing on the intent behind the actions or inactions of the firm.
- 5.9** 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 or presents information. Seeking to exploit consumers' lack of knowledge and understanding would also be a clear sign a firm is not acting in good faith. This would include seeking to exploit customers' behavioural biases, such as tendencies to be influenced by the way things are presented, overvaluing immediate impacts and undervaluing future ones or attaching less weight to effects that are further off, such as termination or renewal fees.

- 5.10** Firms also 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. Firms should have adequate arrangements in place that can help to detect and manage the risk of non-compliance with regulatory obligations arising from their remuneration or performance management practices.

## When firms should consider the requirement

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- 5.11** Firms must act in good faith at all stages of the customer journey and during the whole lifecycle of a product or service. This will include a firm's behaviour focused on groups of customers (for example at product manufacture or distribution stage) and when it is interacting with individual customers (for example through its consumer support).
- 5.12** At **product or service design stage**, firms can act in good faith by designing products or services to support the objectives and needs of customers in the target market and offer **fair value** (see Chapters 6 and 7). Examples of not acting in good faith in this area would include the following.
- Designing features to exploit the behavioural biases of consumers in order to create a demand for a product.
  - Using algorithms, including machine learning or artificial intelligence, within products or services in ways that could lead to consumer harm. This might apply where algorithms embed or amplify bias and lead to outcomes that are systematically worse for some groups of customers, unless differences in outcome can be justified objectively.
  - Adding variations to products to make them more difficult to compare with other products from competitors.
  - Designing products and services that do not offer fair value, or in which pricing and charges are not presented in a way that makes it easy for the consumer to understand the total cost.
- 5.13** Firms can act in good faith to support their **customers' understanding** (see Chapter 8) by presenting information in an even-handed way that properly explains the benefits and risks. For example, a firm would not be acting in good faith if it:
- promotes products or services in a way that misleads customers about the benefits or risks, for instance by disguising the risks or burying key terms in documents or web pages they know customers are unlikely to read
  - inappropriately exploits consumers' biases to create a demand for a product or take advantage of consumers, particularly when in difficult or stressful situations
  - presents customers with incomplete, distorted or skewed information
- 5.14** Through their **consumer support**, firms would also not be acting in good faith if they operate systems or processes that they know frustrate or prevent customers enjoying the use of their products (see Chapter 9). An example of this would be designing websites or mobile phone applications to manipulate or subvert consumers' choices through harmful leading questions.
- 5.15** If a firm identifies that it has caused customers harm, either through its action or inaction, the firm must act in good faith by taking appropriate action to rectify the

situation. This includes 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.

**5.16** In some situations, it will be appropriate for a firm to provide redress, while other forms of remedy, such as providing an apology, will be appropriate in other situations.

**5.17** We expect firms to take existing decisions and guidance from the ombudsman service into account and to apply the same approach where cases present similar facts. Where the ombudsman service has made a decision relevant to the case(s) at hand, we will consider a firm to be acting in bad faith if it delays paying redress where this is due but instead waits for the ombudsman service to make a further decision. We expect firms to promptly pay redress in these circumstances.

### **What it does not require**

**5.18** Neither the requirement to act in good faith nor the Duty overall creates a fiduciary relationship (for example, a requirement to act only in a client's interest and not to profit from the firm's position as fiduciary) where it does not already otherwise exist between the firm and the customer.

**5.19** The requirement for firms to take appropriate 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**

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**5.20** Firms must avoid causing foreseeable harm to customers. Firms can cause foreseeable harm to customers through their actions and omissions. This can occur not only when the firm is in a direct relationship with a customer but also through their role in the distribution chain even where their actions or omissions are not the sole cause of harm. As we explain in Chapter 2, the Duty applies across the distribution chain and the extent of a firm's responsibilities will depend on its role and the extent of its influence over customer outcomes.

**5.21** Whether harm is considered foreseeable would depend on whether a prudent firm acting reasonably would be able to predict or expect the ultimately harmful result of their action or omission in connection with the product or service.

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

**5.23** Examples of foreseeable harm include:

- consumers being unable to cancel a product or service that isn't right for them anymore because the firm's processes are unclear or difficult to navigate
- products and services performing poorly where they have not been appropriately tested in a range of market scenarios to understand how consumers would be affected

- products and services causing harm because the firm's inappropriate distribution strategy leads to products and services being distributed widely to customers for whom they were not designed and whose interests they do not serve
- consumers incurring overly high charges on a product because they do not understand the product charging structure or how it impacts on the value of the product
- consumers incurring high total costs of investing such that the total charges are likely to outweigh the expected above-cash returns from the investments
- consumers with characteristics of vulnerability being unable to access and use a product or service properly because the customer support is not accessible to them
- consumers becoming victims to scams relating to their financial products for example, due to a firm's inadequate systems to detect/prevent scams or inadequate processes to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers
- consumers finding it too difficult to switch to a better product or different provider because the process is too onerous or unclear

**5.24** As the Duty is underpinned by the concept of reasonableness, 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. This will depend in part on the information the firm collects as part of its business, and this in turn will depend on the scale, service offering and capabilities of the firm. However, we expect all firms to collect enough information to be able to act to avoid causing foreseeable harm.

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

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

**5.27** Firms should identify the potential for harm that might arise if their products and services change or their understanding about the impact on customers changes and take appropriate action to mitigate the risk of actual or foreseeable harm.

**5.28** The regular reviews we require of firms 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).

**5.29** Where harm was not foreseeable at the outset but became apparent later, we would expect firms to take appropriate action to mitigate the risk of actual or foreseeable harm. They could do this by updating or amending the design or distribution strategy of a product or service, providing additional support or updating information or advice. For example, if a debt management or advice firm providing an ongoing service to a customer identifies a change in the customer's circumstances that means the previous advice may no longer be appropriate, the firm should update its advice to the customer, and where appropriate adapt their debt management plan.

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

- 5.30** Where a firm has an ongoing relationship with a customer relating to an ongoing product or service the firm would need to act to avoid causing foreseeable harm to that customer throughout the product's lifecycle and the firm's relationship with the customer in relation to that product. Examples of this could include a financial adviser updating its advice, a lender providing appropriate support or forbearance when a customer experiences financial difficulty or an insurance firm responding promptly to a customer's notification of a change of circumstances which affects the nature or amount of cover the policy provides.
- 5.31** If the firm is only involved with the provision of a product or service at a point in time, is no longer providing that product or service to the customer and does not have an ongoing relationship with the customer, 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

- 5.32** Firms should act to avoid causing foreseeable harm at all stages of the customer journey. They should do this when they are thinking about groups of customers (for example their target market or the audience for a financial promotion) or when they are interacting with individual customers (for example when communicating with or providing support to an individual customer).
- 5.33** At **product or service design**, including in relation to **price and value** (see Chapters 6 and 7) firms should act to avoid foreseeable harm by:
- ensuring that products and services are designed to meet the needs of customers within their target market, that the products and services are being 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, such as amending charges, where a value assessment identifies the price of the product or service does not provide fair value
- 5.34** In supporting **customers' understanding** (see Chapter 8) firms should act to avoid foreseeable harm by:
- communicating product or service terms clearly and highlighting key risks for consumers, for example, by prominently disclosing and adequately explaining significant risks in a way that customers are likely to understand
  - 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 so that they can make effective decisions and act in their interests

**5.35** Through **consumer support** (see Chapter 9) firms should act to avoid foreseeable harm by:

- adopting a flexible consumer support approach that takes account of the needs of customers with characteristics of vulnerability
- 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

**5.36** 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. For example, wider economic or market conditions could change the relative attractiveness or suitability of certain products for certain consumers, or cause firms to take actions (for example stopping redemptions from a specific fund) that cause harm.
  - Sometimes firms might only be able to identify the harm when it is too late for the firm to act. For example, a consumer's circumstances could change suddenly in a way that affected their insurance cover shortly before they needed to claim. Or the nature of the harm may be such that there was no way a firm could act to avoid it. Where a firm could reasonably be expected to act, they should do so.
  - 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. For example, investments may carry a risk of capital loss, and secured lending may put a consumer's home at risk if they do not keep up with repayments. We do not expect firms to protect their customers from risks that they reasonably believed the customer understood and accepted. Whether such a belief is reasonable would depend (among other things) on the nature of the product offered by the firm, and the adequacy of the firm's product design, communications and customer services. The extent to which the firm has complied with all relevant requirements (for example requirements around ensuring that products are sold to the right target market, requirements on responsible lending and creditworthiness) in relation to the sale of the product or service will also be a relevant factor to take into account.
- Prevent an insistent customer from making decisions or acting in a way that the firm considers to be against their interests. Even where firms act reasonably to meet the Duty, consumers may sometimes make poor decisions. 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. However, the firm should take steps to ensure that customers understand the risks of their action.
- Require a firm to ration the use of or withdraw individual products or interfere in the transactions of customers based on potential risk where a prudent firm would not otherwise do so. For example, if a customer is looking to buy something using their debit card instead of credit card, the rules do not require their bank to intervene/ add friction to the customer journey at point of sale to make the customer aware that their credit card may have additional protections which could be useful.

- Go beyond what is reasonably expected by consumers in the delivery of their service. For example, whilst a lender should consider key harms that can flow from borrowing (such as the risks of borrowing to consolidate debts or to invest), the Duty does not generally require firms to act to protect customers from more-specific harms related to how they spend funds they borrow, or impose additional requirements in relation to goods or services purchased using borrowed funds.
- 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. Where a firm is planning to alter or withdraw a product or service, they should consider whether it could lead to foreseeable harm for their customers or a specific group of customers (such as customers with characteristics of vulnerability) and take steps to mitigate the impact of the potential harm. This could mean not withdrawing the product or service too abruptly, allowing time and support for customers to find suitable alternatives and ensuring that they communicate any changes in a timely, clear and sensitive manner. This should include setting out what it means for the consumer, communicating alternative solutions, and the consequences to any consumers of not acting. Firms should engage with us if they are considering withdrawing or restricting access to products or services in a way that will have a significant impact on characteristics of vulnerability or on overall market supply.

## Enable and support customers to pursue their financial objectives

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- 5.37** Firms must act to enable and support customers to pursue their financial objectives. This rule is concerned with the financial objectives of the consumer in relation to the financial product or service and applies throughout the customer journey and life cycle of the product or service.
- 5.38** As with the entire Duty, this rule does not remove the responsibility that consumers have for their actions. But 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 proactively and reactively focus on putting customers in a better position to make decisions in line with their needs and financial objectives. This would include recognising and taking account of consumers' behavioural biases and the impact that characteristics of vulnerability can have on their needs.
- 5.39** As with acting to avoid causing foreseeable harm, the actions a firm might need to take to enable and support customers to pursue their financial objectives would be determined by what is within a firm's control, based on their role and knowledge of the customer. The conclusions a firm can reach about the customers' financial objectives will also depend on the type of product or service it provides:
- For the most part, 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. For example, a firm providing a cash Individual Savings Account (ISA) without advice might assume their customers have an objective of keeping their savings safe and trying to maintain or improve their value over time.

- By contrast, a firm providing advisory or discretionary services would understand more about the customer's specific objectives and would need to act on that knowledge. For instance, an advice firm might know a customer has the financial objective to retire by a particular age or to make sure a dependent is provided for.

**5.40** Where a firm declines to provide a customer with a particular product or service, the firm should still consider whether there is information or support it could provide to help the customer pursue their financial objectives. For example, a firm could signpost a customer to a third party that provides reliable and relevant information to such consumers. An example of information or support that may be appropriate to provide a customer that has been declined credit is the 'Money Helper' [guide](#).

**5.41** Travel insurance firms are required to signpost customers with pre-existing medical conditions to a directory of specialist insurers in certain circumstances. This approach is consistent with our expectations under the Duty, as firms signpost declined customers to a reliable source of information that can help them to achieve their financial objectives. Firms in other markets should consider a similar approach when they decline customers.

### **When firms should consider the requirement**

**5.42** Firms should act to enable and support customers to pursue their financial objectives at all stages of the customer journey. They can also do this when a firm is thinking about both groups of customers and when they are interacting with individual customers.

**5.43** Customers are more likely to make decisions in their interests and achieve their financial objectives when firms take steps to ensure that the products and services function as expected, are of fair value, firms' communications are clear and consumer support does not create unreasonable barriers.

**5.44** At **product or service design** stage, including in relation to **price and value** (see Chapters 6 and 7), firms can support consumers in pursuing their financial objectives by:

- designing products or services with clear and straight-forward features so they can be understood by consumers in the target market
- not charging unreasonable exit fees which discourage customers from leaving products or services that are not right for them, or getting better deals

**5.45** In their **communications** with customers (see Chapter 8) firms can support customers in pursuing their financial objectives by:

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

**5.46** Through **consumer support** (see Chapter 9) firms can support customers in pursuing their financial objectives by:

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

### **What it does not require**

**5.47** Neither this cross-cutting rule, nor the Duty overall, require firms to go beyond what is reasonably expected by customers in the delivery of their service.

- It does not require firms to carry out regulated activities outside of their scope of service and/or permissions (for example it does not require firms without advice permissions to provide advice).
- Firms are not required to go beyond what is expected of a prudent firm in the situation. For example, where a customer's financial objective at the relevant point in time is to switch to a cheaper insurance, whilst the firm must not impose unreasonable barriers that prevent or discourage the customer from switching, the Duty does not create an obligation on the firm to provide the customer with a cheaper insurance contract or inform the customer about cheaper options elsewhere.

**5.48** As set out above, 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

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- 6.1** We have seen harm occur where products or services were poorly designed or were distributed widely to customers for whom they were not designed. In addition, there is likely to be a link to the price and value outcome, as however they are priced, products and services that are poorly designed, or distributed to consumers for whom they were not designed, are unlikely to provide fair value.
- 6.2** 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.
- 6.3** The products and services outcome rules are therefore central to firms acting to deliver good outcomes. They set out a range of requirements, including the need for relevant firms to:
- ensure that the design of the product or service meets the needs, characteristics and objectives of customers in the identified target market
  - ensure that the intended distribution strategy for the product or service is appropriate for the target market
  - carry out regular reviews to ensure that the product or service continues to meet the needs, characteristics and objectives of the target market

### What this means for firms

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#### Guidance for manufacturers

- 6.4** Firms are manufacturers if they create, develop, design, issue, manage, operate, carry out, or (for insurance or credit purposes) underwrite a product or service.
- 6.5** Where relevant, these terms include activities under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 in relation to retail market business. For example, managing includes 'managing investments' and operating includes 'operating an electronic system in relation to lending'. However, the terms are not limited to specific definitions and firms should look to the plain language meaning. For example, firms that purchase product or service books would be managing, operating or carrying out activities in relation to the book, which means they are classed as a manufacturer. 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.
- 6.6** The rules apply to the manufacture of products and services. Services 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, for

example, a distributor's sales processes, operating an investment platform, operating a model portfolio service, debt counselling services and arranging transactions. In general, the rules apply at the level of the target market, rather than a firm's services for an individual customer. So, firms need to review the service at that level, rather than for each customer. These rules would only apply at an individual customer level where a bespoke service is developed for a particular customer.

**6.7** The guidance in this chapter 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

**6.8** See also our guidance in Chapter 3 regarding the application of the rules to products and services sold before the Duty comes into force.

### ***Firms working together to manufacture a product or service***

**6.9** 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.

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

**6.11** Where firms collaborate in this way, they must have a written agreement outlining their respective roles and responsibilities to comply with the rules in this section.

**6.12** We expect the agreement to be a confirmation of which firm is responsible for meeting different aspects of the rules under this outcome. 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***

**6.13** The rules apply to each product or service a firm markets or distributes. They apply to existing products or services, to new products or services a firm intends to launch, and to any significant changes a firm plans to make to products or services.

**6.14** In some instances, it can be unclear whether a product should be classed as new or existing.

- When a customer tops up a unit-linked or with-profits insurance bond, they generally do not make the investment into the same policy. Instead, the money is invested in a separate policy. However, where this is a top-up to an existing bond, with the same terms and conditions, this should be seen as an existing product under the rules, rather than a new product.
- Most mortgage lenders offer deals for a limited period only, replacing them from time to time with new deals with different interest rates. Other terms and conditions, including other elements of the charging structure (such as entry and exit fees), remain the same from deal to deal. In such cases, unless there are significant additional changes to the product terms and conditions, we would not expect the change to amount to a new product.

**6.15** 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. For example:

- Updating a general insurance product to clarify the cover might not amount to a significant change. However, if the change narrows the scope of cover, this is likely to amount to a significant change requiring re-assessment under the approval process.
- A firm broadening its investment platform service to offer a wider choice of investments of a similar type to those already included, might not be making a significant change to the service. However, if it makes available a new type of investment product that is more complex and carries additional risks that the target market might not understand, this is likely to amount to a significant change.
- A change to a product or service might, on its own, not amount to a significant alteration. However, if there are several small changes, either at one time or sequentially, together they may amount to a significant change.

**6.16** Firms should regularly review the approval process to ensure that it is still valid and up to date considering their experience manufacturing and reviewing products and services. They should amend the approval process where necessary.

**6.17** If a firm decides to withdraw a product or service, we expect it to consider the Duty and the impact withdrawal could have on customer outcomes.

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

**6.18** 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. These customers are the end-users of the product or service, not other firms in the distribution chain. They are the target market of the product or service.

**6.19** The rules require firms to identify the target market at a sufficiently granular level, considering the characteristics, risk profile, complexity and nature of the product or service.

**6.20** One way firms may wish to test whether the target market has been identified appropriately is to consider if it would include any groups of customers for whose needs, characteristics and objectives the product or service is generally not compatible. Firms may consider if there are any groups of customers who might suffer harm from the product and think if this helps to refine the target market. For example:

- An investment fund might start with a target market described in terms of investment objective and investment risk. However, the target market should be refined and clarified if the product is generally incompatible with the needs, characteristics and objectives of people who cannot commit to hold the investment for more than five years or who cannot afford to bear potential investment losses.
- General insurance products might be designed to meet the needs, characteristics and objectives of customers looking to insure certain technological items. However, if these items are likely to be adequately covered by standard contents insurance, the target market should be refined to exclude people with existing cover.

- The initial target market for a financial advice firm's services might be any customer with a potential pension and investment need. However, the inclusion of high fixed minimum fees in its adviser charging model means that the target market should be refined to exclude customers with very small investment amounts.

**6.21** This consideration can be helpful in relation to many aspects of product and service design. For example, it may help determine an appropriate distribution strategy and relevant information to be provided to distributors and customers. It may also be relevant for ongoing reviews of the product or service, to check if the product or service is reaching customers for whose needs, characteristics and objectives the product or service is generally not compatible and causing harm.

**6.22** For simple products or services intended for the mass market, identifying the target market may be a straightforward exercise. For example, the target market may be more widely defined for:

- 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

**6.23** For more complex or niche products or services, firms should define target markets in more detail, taking account of any increased risk of consumer harm associated with these products or services and their potential mis-sale. For example, a structured product with capital at risk that offers high headline rates of return but with complicated features that make it difficult for investors to understand what returns are likely in practice may need a more defined target market and a particular distribution strategy, such as being sold only with advice.

**6.24** For products or services serving multiple purposes and multiple groups of customers, the target market should cover all relevant groups of customers. Firms may wish to consider if there are any groups of customers who might suffer harm from the product or service, to consider whether this helps refine the target market.

**6.25** In determining the target market, firms should consider the overall product or service and what is expected of consumers' ability to understand relevant concepts. The more complicated a product or service structure and features, the more difficult it is likely to be to explain without risk of consumer misunderstanding. This may have an impact on the target market for the product or service. Material conditions or limitations for a product or service should be clear to the target market and, where appropriate, firms should test consumer understanding. Firms should also consider requirements under the customer understanding outcome, discussed further in Chapter 8.

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

**6.26** Customers may move in or out of vulnerable circumstances at any stage. A firm's 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. However, the extent of consumer vulnerability and the range of needs present will vary between target markets. Our [2020 Financial Lives Survey](#) found that 46% of UK adults, equivalent to 24 million people, showed one or more characteristics of vulnerability.

- 6.27** Under the products and services outcome rules, 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. Instead, we expect firms 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
- 6.28** We also expect firms to take active steps to encourage customers to share information about their needs or circumstances, where relevant. This will practically help firms to understand the needs of customers in the target market.
- 6.29** We do not expect firms to explore customers' circumstances exhaustively or to identify every customer with characteristics of vulnerability. We do, however, expect firms to support their staff to identify signs of vulnerability, for instance through training and resources, and to set up systems and processes that enable customers to disclose their needs, if they choose. See our [guidance for firms on the fair treatment of vulnerable customers](#) for more information about different ways that firms can achieve this.
- 6.30** Firms should consider the needs, characteristics and objectives of customers with characteristics of vulnerability at all stages of the design process, including idea generation, development, testing, launch and review, to ensure products and services meet their needs.
- 6.31** Firms may wish to consider taking an inclusive design approach to meet the needs of customers in their target market, including those with characteristics of vulnerability. Inclusive design is a methodology that involves designing products and services to be accessible and meet the needs of as many customers as possible. All target markets are likely to include customers with characteristics of vulnerability, and inclusive design can be an effective way to consider and meet customers' diverse needs. Fair by Design and the Money Advice Trust have produced a [practical guide for firms on inclusive design](#).
- 6.32** Our guidance for firms on the fair treatment of vulnerable customers provides further detail on our expectations. Examples of actions firms can take in relation to identifying the needs of customers with characteristics of vulnerability in the target market include:
- holding focus groups with customers with characteristics of vulnerability or consumer representatives at the development stage to get a greater understanding of their needs and how products can meet them
  - exploring resources provided from, and consulting with, specialist organisations offering information on how the needs of customers with characteristics of vulnerability can be met in the design stage
  - consulting with customers or representative groups when seeking to alter or withdraw a product
  - employing third-sector organisations who can review products from the viewpoint of customers with characteristics of vulnerability

- 6.33** Firms should be aware that particular groups of customers may have, or be more likely to have, characteristics of vulnerability, for example older people. Data from our 2020 Financial Lives Survey also showed that minority ethnic adults were disproportionately likely to be in vulnerable circumstances. There is also evidence that people with certain protected characteristics, such as disabled and minority ethnic people, are more likely to be living in poverty, which can be an indicator of vulnerability when interacting with financial services. Where health is a driver of vulnerability it will likely have substantial overlap with the protected characteristic 'disability' under the Equality Act 2010.
- 6.34** Where a product or service might meet the needs, characteristics and objectives of particular groups of customers, firms should not exclude them simply because they have characteristics of vulnerability. Doing so is likely to be inconsistent with our cross-cutting rules, in particular our requirement to act in good faith.
- 6.35** Where products or services were developed after the Equality Act 2010, firms should also take account of its requirements in their work. Where distinct groups of customers within the target market sharing protected characteristics, as defined in the Equality Act 2010, experience different outcomes from other customers from a firm's products or services, we expect firms to investigate the causes of this.
- 6.36** 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, where relevant, the Equality Act or equivalent legislation, for all its customers.
- 6.37** Over time, if evidence emerges that customers with a certain protected characteristic are disproportionately experiencing harm, or vulnerable to harm, we expect firms to consider this evidence, review their relevant conduct and assure themselves that they are compliant with our Duty requirements and obligations under the Equality Act 2010.

#### **Example – poor practice**

Some life assurance products include terminal illness benefit. Under this, the policy will pay out if a customer is diagnosed with one of a list of medical conditions and has a life expectancy of less than, in general, 12 months.

In practice, however, some customers find the claims process difficult to navigate, particularly at a time when they should almost certainly be regarded as having characteristics of vulnerability.

Customers may feel discouraged from pursuing a claim through the pre-claims customer journey if claims agents assess the initial call inappropriately.

Claims may also be rejected without appropriate consideration; for example, where firms disagree with the customer's medical practitioner without strong evidence based on the clinical notes.

Firms designing, or reviewing, products with terminal illness benefit should consider their obligations under the products and services outcome. They should, for example, consider whether the criteria for a diagnosis to lead to a pay out under terminal illness benefit meet the needs, characteristics and objectives of the target market. Where a policy only covers a defined list of conditions, this

could include making sure that coverage is sufficient to meet the needs of the target market.

Firms should also consider other aspects of the Duty, including whether:

- their approach meets the requirements to act in good faith and avoid causing foreseeable harm
- they comply with the requirements under the customer communication outcome when providing information on the limitations of the policy and its key features
- they comply 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***

**6.38** The rules require 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 that it does not adversely affect groups of customers in the target market, including groups with characteristics of vulnerability
- to avoid causing foreseeable harm to customers in the target market

**6.39** As part of this assessment, firms must consider the impact on customers in vulnerable circumstances. Any target market is likely to contain customers with characteristics of vulnerability and customers who will experience vulnerability over time.

**6.40** To meet these requirements, we expect firms to base their work on real consumer needs, characteristics and objectives. They should not merely look to copy other products or services in the market.

**6.41** Firms must consider if a product or service could adversely affect groups of customers in the target market, including groups of customers with characteristics of vulnerability. For example, they could consider if any aspects of a product or service could cause foreseeable harm to groups of customers in the target market, in particular those with the most prevalent and impactful characteristics of vulnerability.

**6.42** Firms should also consider other regulatory or legislative requirements that apply to the design of products and services. Section 62 of the Consumer Rights Act 2015, for example, requires that terms in contracts with consumers are fair.

**Example – poor practice**

We have seen examples of some products that were designed, either intentionally or through insufficient consideration of consumer outcomes, with aspects that exploit behavioural biases. For example, we have seen complex investment products where the complexity disguises high risks, high costs, or poor prospects of the product delivering a return commensurate with the risks and costs.

Product design that disguises risks is unlikely to meet our rules for firms to design products and services to meet the needs, characteristics and objectives of the target market. It is also likely to be inconsistent with firm acting in good faith and enabling and supporting customers to pursue their financial objectives.

### Example – poor practice

We have seen products and services that are designed with features that can deter customers from acting in their interests. For example:

- online services where it is not clear whether customers are purchasing products on an advised or non-advised basis
- unreasonable exit fees which discourage customers from leaving products or services that are no longer right for them, or accessing better deals
- practices or contract terms that discourage exit, for example requiring customers to go into a branch to close a product or cancel using registered post services

Practices such as these are likely to breach our product and services outcome rules. They are also likely to be inconsistent with the cross-cutting rules, particularly enabling and supporting customers to pursue their financial objectives, and avoiding causing foreseeable harm.

- 6.43** The rules require firms to undertake appropriate testing of their products or services. In doing so, they must assess whether the product or service will meet the identified needs, characteristics and objectives of the target market, including customers in the target market who have characteristics of vulnerability.
- 6.44** Firms should consider the appropriate level of testing.
- In all cases, they must test products and services in a qualitative manner. For example, they could consider likely changes to the target market's needs in the future and whether the product or service would continue to meet those needs.
  - Where relevant, depending on the type and nature of the product or service and the risk of harm, firms must also conduct quantitative testing. This could include, for example, testing how investments would perform in different market conditions.
- 6.45** As well as considering what has happened in the past, to guard against recurrence of previous problems, firms should consider what might happen in the future. Where relevant, we would not expect firms simply to consider what returns might be delivered based on past performance alone.
- 6.46** Firms should consider how the product or service is likely to function over its proposed term and, where different, the average time customers are expected to hold the product or service, so they can properly assess all potential risks to customers.
- 6.47** Manufacturers could also consider consumer testing. This could be particularly relevant where there are greater risks of consumer harm.

- 6.48** In a thematic review into the distribution of retail investments, TR14/10, we give examples of how testing can inform the design of the full customer journey.
- 6.49** Where a firm undertakes consumer testing, we would expect the range of consumers included to be appropriate and representative of the groups of customers likely to be impacted. Firms should consider if they should conduct testing for any groups of consumers who might have particular needs or experience different outcomes to other consumers in the target market. As part of this, firms should consider how to include the needs of customers with characteristics of vulnerability.
- 6.50** Any consumer research should be designed to solicit open feedback and this feedback should be fairly considered and acted upon.
- 6.51** Firms could also consider conducting consumer research on an ongoing basis to support product reviews.

#### **Example – poor practice**

In a Thematic Review, we identified weaknesses in the design and governance of some structured products. We found that some products were not designed with proper consideration of customer needs, characteristics and objectives, and were of limited value to the customers they were sold to. Causes of this included:

- inadequate testing of how products are likely to perform in all market conditions
- inadequate consideration of the value of products, in comparison to alternative uses of customers' money
- distribution strategies based on factors deemed to be attractive to customers, rather than seeking to meet identified needs, characteristics and objectives

We would expect firms to do more to match product design with the needs, characteristics and objectives of the target market. Firms should be able to determine and evidence this via testing as part of the product approval process.

Manufacturing or distributing products or services that are unlikely to meet the objectives of customers in the target market would not be consistent with acting in good faith, enabling and supporting customers to pursue their financial objectives or avoiding causing foreseeable harm.

#### ***A manufacturer must develop a distribution strategy appropriate for the target market***

- 6.52** When developing a distribution strategy for their products and services, firms should consider what distribution channels are appropriate for the target market. For example, a firm manufacturing a particularly complicated product might consider only allowing the product to be sold with advice or by distributors with specific knowledge, expertise and competence to understand the features of the product.
- 6.53** Unless they have an oversight role, manufacturers are not responsible for the activities of distributors. For example, a vertically integrated firm with a single legal structure may be responsible for both manufacturing and distributing a product or service, while

a firm with different legal entities under a group structure may split responsibility for different aspects of the Duty among those entities.

**6.54** 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

**6.55** Firms should comply with data protection and competition laws when sharing information. However, they must provide distributors with adequate information to enable them to comply with their own requirements under the products and services outcome.

#### **Example – good practice**

A product manufacturer designs a complicated investment product. Its target market is sophisticated investors seeking capital growth and who are willing and able to take significant investment risk. The manufacturer identifies that the product could cause significant harm if bought by customers outside of the target market who may not understand the risks or be able to afford the potential losses.

The manufacturer develops a distribution strategy in which the product can only be sold with advice. The manufacturer identifies a distributor with the appropriate skill and experience to advise on and sell the product. It provides all relevant information about the product and its target market to the distributor. This enables the distributor to assess whether the product is suitable for particular customers and ensure it is only sold to customers in the target market. The manufacturer also monitors on an ongoing basis whether the product is distributed to customers in the target market.

This is also likely to be consistent with the cross-cutting rules, showing the firm is taking steps to act in good faith and avoid foreseeable harm.

### **Guidance for distributors**

**6.56** Firms are distributors if they offer, sell, recommend, advise on, arrange, deal, propose, or provide a product or service, including at renewal. Some of these terms – selling, arranging and dealing – use Handbook definitions to clarify their meaning. Elsewhere, the terms take their plain language meaning. The concepts are deliberately broad, and the terms may overlap, to capture all aspects of the distribution of a product or service.

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

**6.57** The distribution arrangements must:

- avoid causing and, where that is not practical, mitigate foreseeable harm to customers
- support management of conflicts of interest
- ensure the needs, characteristics and objectives of the target market are taken into account

**6.58** In relation to management of conflicts of interest, for example, firms should not make any arrangements, such as by way of remuneration or sales targets, that could provide an incentive to employees to recommend a particular product or service when an alternative would better meet a customer's needs.

***Distributors must understand the products or services they distribute***

**6.59** Distributors must get appropriate information from manufacturers so they have the necessary understanding of the products or services they distribute. The information must allow them 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 needs, characteristics and objectives of the target market

**6.60** 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***

**6.61** A product or service may not have been approved in accordance with the obligations under the products and services outcome if it was developed by a firm outside the UK. In this case, distributors must comply with the obligations on distributors under the rules for this outcome. They must for example, take all reasonable steps to understand the product or service and the target market it would serve in order to ensure it will be distributed appropriately.

***A distributor should identify or create a distribution strategy***

**6.62** The rules require distributor firms to identify the intended distribution strategy for the product or service and ensure it will be distributed in accordance with the target market for products and services.

**6.63** When a distributor sets up or implements a specific distribution strategy to supplement the manufacturer's strategy for a product or service, it must be consistent with the manufacturer's intended distribution strategy and the identified target market.

### **Example – poor practice**

A firm distributed a packaged bank account that included a range of additional features, such as travel insurance. When distributing the product, the firm did not have sufficient controls to prevent the product being marketed to customers who would be unlikely to use the additional features. As well as being likely to be an inappropriate distribution strategy, this could mean the firm is not acting to avoid foreseeable harm.

## **Data and monitoring**

**6.64** Chapter 11 sets out our overall expectations for firms to monitor the outcomes their customers are experiencing. In this section we highlight elements of monitoring that are specifically relevant to the products and services outcome.

**6.65** Manufacturers must regularly review whether their:

- products and services meet the identified needs, characteristics and objectives of the target market, including any identified for customers with characteristics of vulnerability
- distribution strategy remains appropriate for the target market
- products or services have been distributed to customers in the target market

**6.66** 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

**6.67** When deciding how regularly to review a product or service, firms should consider factors such as:

- the nature and complexity of the product or service
- the nature of the customer base, including whether there are significant numbers of customers with vulnerable characteristics
- any indicators of customer harm

### **Sharing information**

**6.68** To support manufacturers' reviews, distributors must, upon request, provide relevant information, including, where appropriate, sales information, information on cancellations, and information on the regular reviews of their distribution arrangements.

**6.69** The requirement to provide information to support manufacturer reviews applies to all distributor firms in the distribution chain. We expect all firms in a distribution chain to co-operate. For example, if they do not have relevant information to provide to the manufacturer, intermediate firms might need to pass on information or provide details of firms later in the chain to allow flow of information.

**6.70** In general, we do not expect distributor firms to share information without being asked. As the information is to support a manufacturer review of a product or service, we expect the manufacturer firm to consider what information would be helpful and to take reasonable steps to gather it. For example, a manufacturer firm could consider focus groups including a few distributor firms, or sending surveys to distributors.

These steps could help ensure the information requests are manageable and focused on the issues the manufacturer firm wishes to cover.

- 6.71** As an exception to the general approach, where appropriate, 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.
- 6.72** Firms should comply with data protection and competition laws when sharing information.
- 6.73** We would not expect distributor firms to share information about individual customers which conflicts with data protection laws. They should consider providing anonymised or aggregate information instead. For example, information could relate to the proportion of customers with characteristics of vulnerability, rather than identifying individual customers with additional needs. Or a firm could provide any feedback they have received, on an anonymous basis, of the reason customers cancel a product early.
- 6.74** Manufacturers could ask distributors 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?
- 6.75** Where manufacturers ask for information, distributors should consider what they can do to help. Distributor firms should consider if the information they provide is adequate to help the manufacturer in its reviews of a product or service.

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

- 6.76** Firms distributing products or services manufactured by firms to which the products and services outcome does not apply should take extra care when reviewing their distribution arrangements. 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***

- 6.77** In order to monitor this outcome, firms could consider data such as:
- sales information and information on business persistency
  - customer feedback

- complaints received about the product or service, and the results of root-cause analysis of those complaints
- analysis of whether the product or service functions as expected at outset, including 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***

**6.78** If firms identify issues in their review, they must take appropriate action to mitigate the situation and prevent further harm from occurring. Where appropriate, they must inform other firms in the distribution chain about their actions.

**6.79** In terms of action they could take, firms could consider, for example, making changes to a product or service, providing additional information to distributors or customers, amending the distribution strategy before making further sales, offering existing customers the option to leave the product or service without additional cost, or providing appropriate mitigation of any harm suffered.

#### **Example – good practice**

A consumer credit firm designed a lending product with late payment fees. The target market included customers who are likely to be less financially resilient. In its review of the product, the firm identified that a sizeable proportion of its customers were not making payments on time and were paying substantial sums in late payment fees. The firm investigated why this was the case and took action to mitigate the situation and prevent further harm. The firm reconsidered its approach to assessing creditworthiness and made its payment terms more flexible, to help make payments more manageable.

The firm also applied forbearance by waiving its missed payment fees for existing customers, and by providing additional support and communications to help affected customers.

As well as meeting rules under the products and services outcome, this also shows the firm acting in good faith and acting to avoid foreseeable harm.

As the target market included customers with characteristics of vulnerability, the firm paid particular attention to mitigating the risks to which they would likely be exposed.

#### **Example – poor practice**

A pure protection product manufacturer has a distribution strategy of non-advised tele-sales by third parties. Over time, the firm found that 40% of its contracts sold in this way were cancelled within the first year. This could indicate that product was being sold widely outside the target market and that the customers affected are suffering harm.

The firm considered that only the distributor firms are responsible for product sales and took no further action to investigate what drove the high cancellation rates.

While the firm is not responsible for the activities of its distributors, it is required to take all reasonable steps to ensure that products are distributed to the identified target market and to review whether the distribution strategy remains appropriate. Where foreseeable harm is identified, firms must take appropriate action to mitigate that harm.

The manufacturer could investigate the causes behind the high cancellation rates and consider whether it needs to amend the target market, provide additional training to some of its distributors, or amend the information it provides for prospective customers. If such actions do not address the issue, and many customers continue to suffer foreseeable harm, the firm should consider additional actions. This could include changing the distribution strategy or ceasing to work with certain distributors if they are not selling the product in accordance with the intended distribution strategy. Addressing low persistency rates could also be beneficial to the firm.

### Example – poor practice

Some e-money products aimed at specific groups of customers have been purchased by customers outside the target market. This may not necessarily lead to consumer harm, but firms should consider the implications. For example, they may need to make changes to the target market or distribution strategy.

In some cases, we have seen firms engaged in cross-selling, where the promoted products are appropriate for the original target market but may not necessarily be so for all of the wider group of actual customers. This could create a risk that customers purchase products which do not meet their needs.

### Key questions for firms

**6.80** In the table below, we set out examples of the type of questions firms can expect to be asked in their interactions with the FCA in relation to this outcome. We would also expect the Duty champion and the Chair to use this type of question to guide discussions by the firm's board or equivalent governing body.

### Key questions for firms

- Has the firm specified the target market of its products and services to the level of granularity necessary?
- 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 that distribution strategies are being followed and that products and services are being correctly distributed to the target market?
- What data and management information is the firm using to monitor whether products and services continue to meet the needs of customers and contribute to good consumer outcomes? How regularly is it reviewing this data and what action is being taken as a result?
- Where the firm is planning to withdraw a product or service from the market, has the firm considered whether this could lead to foreseeable harm? What action is it taking to mitigate this risk?

## What this does not mean

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

- Exclude particular groups, such as customers who might have characteristics of vulnerability and whose needs or objectives a product might meet. We expect firms to design products or services to take account of the needs of all groups within the target market.
- Ensure that products or services are suitable for individual customers within the target market, except where this is relevant in the context. For example, firms need to consider suitability for individual customers when providing advice or discretionary services, or assess affordability when arranging a loan. Applicable rules regarding these activities continue to apply separately to the rules under this outcome, which are general in nature.
- Mitigate harm that was not foreseeable. However, firms need to keep their products, services and distribution strategies under regular review: they should take appropriate actions if a risk of consumer harm becomes foreseeable

## Interaction with existing rules

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**6.82** The Product Intervention and Product Governance sourcebook (PROD) sets similar requirements on the design, approval, marketing and management of certain products and services throughout their lifecycle. But PROD does not have general application across all retail markets that we regulate.

**6.83** If a firm's product or service is subject to the rules in PROD for financial instruments and structured deposits (PROD 3), insurance (PROD 4) or funeral plans (PROD 7), it must continue to comply with those rules and the rules in PRIN 2A.3 do not apply to the firm for that product or service.

**6.84** In some cases, a product or service would have been within scope of PROD but for certain application provisions. For example, some products were introduced before the relevant rules in PROD came into force. In addition, certain types of firm follow PROD 3 as guidance rather than rules. The rules in PROD are broadly equivalent to those under the products and services outcome. So, in these cases, firms may choose whether to comply with the rules in PROD or those under the products and services outcome. Failing to comply with PROD would be taken as failing to comply with the Duty.

- 6.85** The following are examples of material that a firm could use to show that it has followed the provisions of PROD:
- details of the firm’s product approval process
  - where more than one firm is involved in manufacturing a product or service, a copy of the written agreement
  - records of the target market assessment
  - records of the firm’s product or service testing, including a record of scenario analysis
  - records of information provided to distributors
  - records of any reviews of the product or service, including in relation to action taken to address any identified issues
  - records of the firm’s oversight and control arrangements
  - copies of any compliance reports that comply with PROD
- 6.86** Evidence of compliance with PROD, whether through the material listed above or otherwise, will demonstrate that the firm is not in contravention of the products and services outcome.
- 6.87** The Duty as a whole is broader than the existing rules in PROD, so satisfying the PROD rules is unlikely to mean a firm meets all aspects of the Duty. For example, firms would still need to consider elements of the Duty such as the customer support outcome for their product or service, and to pay appropriate regard to the nature and scale of characteristics of vulnerability that exist in the target market.

## Summary

- 6.88** Below we give examples of actions that are likely to be consistent or inconsistent with the products and services outcome.

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
A target market is defined so broadly that it captures groups of customers for whose needs, characteristics and objectives the product or service is generally incompatible.	The target market is defined at a sufficiently granular level to help avoid sales to customers for whose needs, characteristics and objectives the product or service is generally incompatible.
Products or services are marketed or distributed without considering whether they are designed to meet the needs, characteristics and objectives of customers in the target market.	A manufacturer considers if a product or service meets the needs, characteristics and objectives of customers in the target market and, where it does not, takes appropriate action to mitigate the situation and prevent any further harm.

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
<p>A manufacturer does not test a new product or service before launch and, as a result, does not identify that the product does not meet the needs, characteristics and objectives of the target market.</p>	<p>A manufacturer tests its product or service before launch to assess how it is likely to function in different conditions and whether it could lead to foreseeable harm. Where it identifies potential issues, the firm adjusts the product or service to avoid them or mitigate their impact.</p>
<p>A distribution strategy is not appropriate and the product or service is distributed to groups of customers for whose needs, characteristics and objectives the product or service is incompatible.</p>	<p>A product or service has an appropriate distribution strategy and is sold to customers in the target market for whose needs, characteristics and objectives the product or service was designed.</p>
<p>A firm does not review its products or services or distribution arrangements and does not identify a potential issue when it becomes foreseeable. The firm misses the chance to prevent the harm before it can materialise, and customers suffer harm.</p>	<p>A firm identifies a potential issue during its regular review of a product or service or distribution arrangement and takes appropriate steps.</p>
<p>Firms do not consider the fairness of their product or service contract terms, resulting in unfair terms that are not enforceable.</p>	<p>Firms draft and regularly review their product or service contract terms to ensure compliance with the fairness requirements of the Consumer Rights Act 2015.</p>

## 7 The price and value outcome

### Overview

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- 7.1** Retail customers experience harm where they don't get value for their money. A lack of fair value is unlikely to be consistent with customers realising their financial objectives and firms cannot act in good faith if they are knowingly manufacturing or distributing poor value products or services.
- 7.2** Fair value is about more than just price. The Duty aims to tackle factors that can result in products or services which are unfair or poor value, such as unsuitable features that can lead to foreseeable harm or frustrate the customer's use of the product or service, or poor communications and consumer support.
- 7.3** The specific focus of the price and value outcome rules is on ensuring the price the customer pays for a product or service is reasonable compared to the overall benefits (the nature, quality and benefits the customer will experience considering all these factors). Value needs to be considered in the round and low prices do not always mean fair value. We expect firms to think about price when assessing fair value but not at the expense of other factors.
- 7.4** Our intention is not to set prices and our rules do not have this effect. It also does not mean that firms are expected only to offer products and services at a low price. Products or services that cost more for customers may well provide value if that reflects their quality and benefits.
- 7.5** A product or service that doesn't meet any of the needs of the customer it is sold to, causes foreseeable harm or frustrates their objectives is unlikely to offer fair value whatever the price. A product or service that has negligible or no obvious benefit for consumers is unlikely to provide fair value whatever the price.
- 7.6** High pricing might also indicate that some other element (eg transparency, simplicity of terms, ease of exit) isn't functioning properly and/or that there is an absence of effective competition in a market.
- 7.7** A product or service that meets all of the other elements of the Duty (for example, if it is designed to meet the needs of its target market, is transparently sold, customers are able to exercise choices to switch or exit, and are properly supported) is therefore more likely to offer fair value. This is both because of the benefits customers receive and because they have the information they need about the benefits and limitations of the product or service they are buying, and the ability to pick something else should they prefer. Under the rules, firms should be ensuring these conditions are met.
- 7.8** Even in cases where other elements of the Duty are met, the price and value outcome rules still prompt firms to ask questions such as:
- Are there elements of the pricing structure that could lead to foreseeable harm?

- Are there fees or charges or rates which appear unjustifiably or unreasonably high compared to the benefits of the product and other comparable products (either in the firm's product portfolio or comparable products supplied by other firms)?
- Should/have any changes in the benefits of the product been reflected in the price?
- Should/have any material changes to assumptions that underpinned pricing (for example on costs of servicing) been reflected in changes to the price?

## Assessing value

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- 7.9** In order to assess if a product or service provides value, firms must consider at least the following:
- the nature of the product or service, including the benefits that will be provided or may reasonably be expected and their qualities
  - any limitations that are part of the product or service (eg limitations on scope of cover for insurance products), and
  - the expected total price customers will pay, including all applicable fees and charges over the lifetime of the relationship between customers and firms
- 7.10** When firms perform value assessments, in addition to the above, they may consider a range of factors in demonstrating that the price paid is reasonable compared to the benefits. These are also factors that we may consider when we look at the firms' value assessments. They include the following points.
- The costs firms incur to manufacture and/or distribute the product or service, including the cost of funding (eg for loans). Difference in costs may for example explain why otherwise similar products are priced differently, and/or explain changes in the price charged over time.
  - The market rates and charges for comparable products or services and whether the product is a significant outlier compared to these. Where a product or service is a significant outlier, it might prompt the firm to check that other elements of the design of, and support for a product or service are functioning properly, and/or to confirm they are still confident the price is reasonable compared to the benefits received.
  - Whether there are any products in the firm's portfolio which are priced significantly lower for a similar or better level of benefit.
  - Any accrued costs and/or benefits for existing or closed products.
- 7.11** This is a different assessment to the one carried out in the context of competition law on excessive pricing as abuse of a dominant position, though some of the factors may overlap with factors referenced in competition law.
- 7.12** Depending on the nature of the product or service, 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 whether the price provides fair value in relation to the benefits.
- 7.13** Firms have the discretion to decide on the factors they use in their value assessments, provided those factors allow them to demonstrate that there remains a reasonable relationship between the total price of the product or service and the benefits the customer receives.

- 7.14** If a product or service does not provide or ceases to provide fair value to customers, firms must take appropriate action to mitigate and prevent harm, for example, by amending it to improve its value or withdrawing it from sale. Chapter 3 provides more detail on the assessment of fair value for existing and closed products and services.
- 7.15** Firms must assess value at the design stage and before offering products or services to consumers. They must ensure that the prices represent fair value for a foreseeable period. The foreseeable period will depend on the nature of the product or service and, where a product or service renews, includes following renewal.
- 7.16** Firms must also monitor and assess the value of their products and services throughout their life, conducting regular reviews of their value assessment. Where a firm identifies that a product or service does not provide fair value, it must take appropriate action to address the issue. This will allow consumers to be confident that the product or service will continue to provide fair value.
- 7.17** Where products and/or services are sold together as part of a package, firms must ensure that each component product or service, and the overall package, provides fair value. We expect firms to be able to show us that they have made an assessment and can demonstrate why they consider that the relationship between the price and benefits is reasonable.
- 7.18** 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.
- 7.19** When carrying out value assessments, firms may group similar products together where the customer base, complexity and risk of consumer harm are sufficiently similar. Firms should not group products or services if it could impair their ability to assess each product or service adequately.
- 7.20** Firms providing a product or service that has no financial cost should still consider if their customers are incurring non-financial costs, and whether those costs are reasonable in relation to the benefits of the product. Where a product or service does not have any financial or non-financial cost to the consumer (eg debt advice funded through other sources), we would not expect firms to do a value assessment.
- 7.21** We do not expect firms to base assessments of value on external factors largely out of their control. For example, an investment trust might be trading at a premium to its net asset value due to broader market conditions. This, by itself, would not represent poor value for money. Instead, we expect firms to consider the value of the charges they control, including any ongoing charges, within the context of the net asset value.

## What this means for firms

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### Benefits received by consumers

- 7.22** Manufacturer firms must assess the benefits consumers can reasonably expect from a product or service when designing products and services to meet the needs, characteristics and objectives of the target market.

**7.23** Different products and services will offer different benefits, which will have an impact on the assessment of value. For instance, some consumers may rate quality in terms of the additional benefit they get from a product. Consequently, they might be willing to pay more for a product that provides this compared to other products with fewer benefits. An example would be premium current accounts where consumers receive greater support, cash-back or add-on insurance products for a monthly fee. This may be considered fair value for the target market where there is a reasonable relationship between the benefits received and the price paid.

**7.24** Characteristics such as the quality of the product or service, level of consumer service, potential pay-out or return, how well it meets consumers' needs, or other features that consumers find valuable, all determine the benefit against which the price of the product 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, such as a greater level of ongoing support to customers or higher quality customer interactions, will provide more benefit to customers
- greater availability and convenience of consumer access will also be a benefit to customers

### Example

Enhanced home insurance that covers additional risks or provides enhanced customer service often costs more than a standard policy and this is likely to be reflected in the price.

Retail consumers do not all need to claim under the additional coverage, or make use of the additional customer services, for the product to provide fair value. However, firms must ensure that there is a reasonable relationship between the price charged and benefits and that there is a reasonable probability of a consumer in the target market claiming when the policy was designed and sold.

Firms may also wish to consider the data required under the general insurance value measures reporting rules in SUP 16.27. This provides useful high-level indicators of customer experience of a product. The data can help to indicate whether the product provides fair value.

## The price charged to consumers

**7.25** When considering the price charged, manufacturer firms must consider all the costs and charges a consumer may pay for the product or service over time. For example, firms must consider the following points.

- The charges consumers pay at the start and end of a contract. Where different distribution arrangements result in different prices for consumers, manufacturers must consider these as well. They must ensure, where reasonable, that their distribution arrangements do not cause the product to become unfair value.
- All fees and charges which consumers may incur over the life of the product or service. These may include contingent charges, like fees as a result of late

payments/arrears. For example, for consumer credit products, like personal loans or credit cards, firms must consider all interest, fees and charges a consumer may incur, including late payment/arrears charges. This is especially important if the target market includes consumers with poor credit rating.

- Where products and/or services are intended to be sold together as part of a package, firms need to consider the value of each component and the overall value of the package.

### Example

Our Strategic Review of Retail Banking Business Models found that many small and medium enterprises (SMEs) may be paying high charges on Business Current Accounts (BCAs) due to the perceived difficulty of switching bank accounts and the complexity of charging structures on these accounts. Our report found that this is a complex market, where prices can be opaque, and some SMEs might not be benefiting from competition.

Under the Duty, we would expect firms to consider the fair value of their BCAs for SMEs. They will also need to ensure that prices are transparent and clearly sign-posted so that consumers are able to understand what they are paying and compare it to alternatives. This is an essential condition for consumers receiving fair value. Retail banks may also consider cognitive and behavioural biases of their customer base when carrying out value assessments, by for example, recognising that consumers in their market may have low engagement when using their products or services.

### Example

A firm provides buy-now-pay-later products at 0% interest over 18 months. Its core revenue comes from the commission it receives from the retailer on the value of the goods sold. However, it also charges default fees, and these can build up to a considerable level. Its target market includes consumers who are on low incomes or who have poor credit ratings. A high number of consumers default and the firm receives considerable revenue from default fees.

Under the Duty, we would expect firms to consider whether elements of the pricing structure could cause foreseeable harm and be able to demonstrate that the overall costs that consumers are likely to pay, including potential default fees, are reasonable relative to the benefits. We note that consumers might not give sufficient consideration to the risks and consequences of default when being offered such products, and this can increase the risk of them receiving unfair value.

**7.26** In some cases, the price a firm charges may be high because it reflects the underlying costs to the firm. This may be the case, for example, where customers represent a higher credit or insurance underwriting risk. In such cases, the price charged to these customers may be higher than for other customers representing a lower risk. However,

firms must still be able to demonstrate that the benefits were reasonable relative to the price.

**7.27** When designing charges and charging structures, firms also need to consider how their target market is likely to use the product or service. As discussed below, in the section on different outcomes for different groups, firms must also consider the likely price different groups will pay through the expected term of the product relative to the benefits they receive.

### Example

Under our Duty, firms imposing a very high charge for customers with high credit risk must be able to satisfy themselves that the price paid is reasonable compared to the benefits the customer receives. Firms have flexibility to decide which metrics to use to satisfy themselves that their products provide fair value.

They will also need to consider other relevant elements of the Duty. For example, they should consider whether customers are likely to be more at risk of accepting such terms due to characteristics of vulnerability or their lack of other credit options, and whether the high cost of repayment of the loan might increase the risk of customers getting into payment difficulties. The firm could consider the credit risk of their customer base and market rates for comparable products as relevant factors, but firms should consider whether high prices to mitigate losses from high rates of default enables lending which exposes consumers to a high risk of harm.

### Example

Our supervisory work has highlighted practices by some mortgage firms that have the potential to lead to significant harm to borrowers in financial difficulty. This happens if the ongoing payments a borrower makes are less than the accruing interest, causing the outstanding balance to escalate. The effect can be exacerbated where firms add unpaid fees or charges to the balance which also accrue interest. Where the customer fails to get back on track for a significant period, they may ultimately lose their home if they are unable to pay the amount owed at the end of the mortgage.

These issues are more apparent where interest rates are higher, for example in parts of the second charge market, and where fees and charges are accounted for separately. We have seen examples where a firm will accept token payments from a borrower to forgo action but where the long-term appropriateness of this for a customer's individual circumstances is not considered and the implications of making payments at the level agreed are not adequately explained.

Under the Duty, a firm will need to act in a way that avoids the foreseeable harm caused by an escalating balance, and equip consumers to make effective, timely and properly informed decisions. Firms will also need to ensure the loan represents fair value for consumers. This means considering whether their pricing practices result in poor value for any cohort of customers in their target market, including any that may be at a higher risk of further charges or likely to

be subject to forbearance. As well as considering the fairness of interest rates charged, firms will need to be able to demonstrate that the total price paid for the product, including any fees and charges that they (or others) may apply, represents fair value.

**7.28** Firms also need to consider whether consumers will incur other costs which may not be financial. Non-financial costs may include:

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

**7.29** Firms should not impose unreasonable non-financial costs. For example, unclear or misleading information could make it hard for a customer to assess their options. If a firm imposes unreasonable barriers to assessing or accessing the benefits of a product or service, it may be that many customers do not act to realise their financial objectives. In effect, this increases costs relative to the benefits of a product or service.

**7.30** The Duty does not allow firms to put unreasonable exit charges on their products. Such charges are unlikely to be fair value, may cause foreseeable harm and are unlikely to support customers in fulfilling their financial objectives. Firms should be able to demonstrate that exit charges are fair and are reflective of their underlying costs for terminating a contract.

### Example

We have seen evidence of customer data being monetised to derive income and benefit for firms. Some firms routinely engaged with third party providers by buying and selling customer data. We found that firms were unable to articulate how the customer was receiving fair value in the provision and use of their personal data.

Firms should make explicit consideration of consumers' data if this is being monetised. While we do not necessarily expect non-tangible costs and benefits to be monetised, we do require firms to make at least a qualitative consideration of how this affects the overall value proposition for the consumer.

### Example

Money remitters should consider the fairness of their charges and fees to all consumers of their money remittance services. Examples of points to consider in assessing whether the service provides fair value include: the extent to which the services meet consumers' reasonable expectations, any limitations on the money remittance service, and vulnerability characteristics amongst some consumers in the target market.

## Guidance for distributors

- 7.31** Distributors must ensure their own charges for distributing the product or service 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.
- 7.32** Distributors must obtain relevant information from manufacturers to understand the value a product or service is intended to provide 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 to retail customers.
- 7.33** This means that the distributor will need to consider the cumulative impact of the remuneration added by each person in the chain on the overall value of the product to the customer. This is important as fees charged by different firms along the distribution chain might together result in a higher overall fee that does not represent fair value for consumers. This is likely to be particularly relevant where there are long or complex distribution chains with multiple fees added by multiple parties. This risk may be less likely in markets with less complex and flatter distribution chains, such as in the mortgages sector, where there are unlikely to be multiple charges added across the value chain.

### Example

- **Mortgage lender:** The firm must be able to demonstrate that their product and any associated charges provide fair value for the target market. This includes making consideration of the overall charges that the customer might pay, including any that might be levied as a result of the firm's distribution strategy. Firms should factor such average intermediary fees in their value assessments and must also ensure that distributors have the necessary information to carry out their own assessment of value.
- **Mortgage broker:** The firm must obtain information from the manufacturer such as a high-level summary of the benefits to the target market, information on overall prices or fees and confirmation that the manufacturer considers that total benefits are proportionate to the total costs. The firm must also ensure that its own fees and charges are fair value and that payment of these does not result in the product or service ceasing to be fair value overall.

### Example

Where different firms are involved in the distribution chain for an investment product, they all have responsibility to consider fair value as part of avoiding foreseeable harm and helping support customers in pursuing their financial objectives.

- **The fund manager:** The firm must assess whether their charges levied are justified in the context of the overall value of the product.
- **The platform provider:** The firm must set fair value charges for using the platform. In some cases, the platform provider will be the final firm in the

distribution chain. As such, the platform provider will need to consider the overall impact of the remuneration added by each person in the chain on the value of the product to the consumer.

- **The financial adviser:** The firm must consider if its advice charges provide fair value. In addition, it must consider the relationship between the overall cost to the customer (including all product and distribution charges in the distribution chain) and the expected benefits from the product.

**7.34** Where the distributor is a financial adviser, they must ensure that they recommend a proposition that is fair value for the customer.

**7.35** Where a manufacturer sets the final price that the retail customer receives, including distribution charges (ie, through commissions) then they are responsible for ensuring that the product provides fair value. The distributor does not need to carry out a value assessment – though they must confirm that the manufacturer has carried out a value assessment and review the information shared by the manufacturer to understand the benefits for the target market before they distribute.

**7.36** We note that a product or service may not have been approved in accordance with the obligations under the price and value outcome if it was developed by a firm outside the UK. In this case, distributors must comply with the obligations on distributors under the rules for this outcome. They must take all reasonable steps to understand the benefits of the product or service to the target market, any limitations of the product and whether their or any other charges added along the line cause the product to become unfair value.

### Example

We published [Guidance to firms in the general insurance sector on our expectations for firms to manage the distribution chain](#). We conducted a multi-firm review to assess how firms responded to the guidance. One firm assessed its remuneration arrangements and decided that some were too flexible when allowing intermediaries to set their commission. This created the potential for poor value and consumer harm. The firm made changes to its remuneration arrangements as a result. This is a good example of a firm acting in good faith and seeking to avoid foreseeable harm.

## Different outcomes for different groups

**7.37** We have conducted work looking at [fair pricing in financial services](#). In line with this, we consider that firms charging different prices to different groups of consumers are not necessarily in breach of the Duty. The fair pricing work sets out a framework of factors we consider when assessing whether price discrimination is fair. Firms may also like to consider this when reviewing their approach to charging different prices to different groups of customers.

**7.38** The price and value outcome rules 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. However, 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, while having regard to whether any customers who have characteristics of vulnerability may be disadvantaged.

- 7.39** As we found in our market study of general insurance pricing practices, price walking some groups of consumers can lead to them making significant overpayments which do not provide fair value. This would not meet the requirements of the Duty.

#### Example

Most mortgages have an initial incentivised rate (either fixed or variable) that reverts to a variable rate after a period of time. The standard variable rate (SVR) is the most common reversion rate. When considering whether a mortgage offers fair value, firms should consider the overall price of a mortgage including any initial discounted rate, fees and charges and the reversion rate applicable at the end of a fixed rate period. This does not require firms to move away from designing products that revert to a variable rate (such as an SVR), and fair value can still be delivered by an approach in which introductory rates are lower than the rates that borrowers later pay.

- 7.40** Firms can also differentiate products or services; for example, insurance firms can still have bronze, silver and gold cover products with different levels of benefits offered to the consumers. But firms will need to consider whether it is reasonable to have different types of product or service, especially if the benefits offered to the consumers do not vary significantly between them. Similarly, the Duty does not prevent firms selling similar products, but under different brands and with different pricing structures, as long as each provides fair value.

- 7.41** When firms have different products serving similar target markets, they should 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.

#### Example

Servicing fees can be charged as a percentage of the value of a product. For example, there might be a percentage charge in relation to the size of a loan, investment or savings. In this case, 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. In such circumstances, firms must consider whether the relationship of the price consumers in different groups pay is reasonable relative to the benefits they receive.

Similarly, sometimes firms may charge fixed fees on their products. For example, multiple fixed fees on customers with small amount of funds invested might result in overall poor value. In such circumstances, firms must consider whether their charges provide fair value for their target market.

- 7.42** Firms should also consider how different groups of consumers are affected as some groups may be more at risk of harm. Consumers with characteristics of vulnerability, for example, may be more susceptible to receiving poor value. Firms need to take extra care when dealing with consumers with characteristics of vulnerability, as set out in the rules for the Duty and also in our [Guidance on the fair treatment of vulnerable customers](#). Firms should be able to evidence to us that the price of the product or service represents fair value for different consumer groups, including those with characteristics of vulnerability.
- 7.43** Firms should be particularly careful where groups that share protected characteristics (as defined in the Equality Act 2010) may be disadvantaged. Firms should satisfy themselves, and be able to evidence to us, that any differential outcomes represent fair value, and are compatible with their obligations under the Equality Act.

### Example

In some situations, a firm may choose to revise its strategy for pricing across different customer groups. For example, a firm might move away from flat pricing to credit-risk based pricing for its products. In such scenarios, we would expect firms to communicate these changes to their customers in a clear and upfront manner, and also ensure that the new pricing strategy reflects fair value for different cohorts in their customer base.

## Data and monitoring

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- 7.44** Chapter 11 sets out our overall expectations that firms monitor and review the outcomes that their customers are experiencing. In this section, we highlight elements of monitoring that are specifically relevant to price and value.
- 7.45** As well as assessing value at the design stage, firms must review value throughout the product's or service's life.
- 7.46** They must consider how regularly to perform ongoing value assessments based on relevant factors. These factors may include the nature and complexity of the product or service, any indicators of customer harm, the distribution strategy and any relevant external factors.
- 7.47** Firms must get all necessary information to enable them to understand and monitor consumer outcomes. Firms should consider their record keeping obligations in the Senior Management Arrangements, Systems and Controls sourcebook (SYSC) and in line with these, should consider what records they should maintain of their value assessments. We expect that firms are able to clearly demonstrate how any product or service provides fair value.
- 7.48** In carrying out the value assessments, firms should collect and analyse appropriate management information (MI). They should collect MI 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 we request it.

- 7.49** Firms must take appropriate action where their review identifies that a product or service does not provide fair value. This may include amending the benefits or price of a product or service so that it provides fair value, withdrawing the product, or where consumers have suffered harm, providing redress.

### The types of data/ monitoring firms could use

- 7.50** Firms could use the following types of data to monitor that they are meeting expectations under this outcome:

- the expected price paid by customers, 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 or other customer research
- 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, manufacturers, intermediaries, appointed representatives or other third parties 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

- 7.51** In the table below, we set out examples of the type of questions firms can expect to be asked in their interactions with the FCA in relation to this outcome. We would also expect the Duty board champion and the Chair to use this type of question to guide discussions by the firm's board or equivalent governing body.

#### Key questions for firms

- 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 for different groups of consumers, including those in vulnerable circumstances or with protected characteristics?
- If the firm is charging different prices to separate groups of consumers 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 data, MI and other intelligence is the firm using to monitor the fair value of its products and services on an ongoing basis? How regularly is it reviewing this material, and what action is it taking as a result?

## What this does not mean

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**7.52** 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. We are not seeking to cap the prices or margins of products and services.
- Prevent firms with an innovative product or service that provides additional benefits to customers charging 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 any business models which may have different prices for different groups of consumers, or prevent cross subsidies between different products or services. However, firms should be able to justify the fair value of each product or service offered to each customer group, considering both consumers with characteristics of vulnerability and consumers with protected characteristics under the Equality Act 2010.
- Require firms to point consumers to a potentially better or cheaper product or service offered by another firm (unless there are Handbook requirements to do so, for example to signpost debt advice). 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

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**7.53** There are rules on 'fair value', and 'value assessments' elsewhere in the Handbook. These rules are specific to the sectors but have similar objectives to this outcome. Where existing rules require manufacturer and distributor firms to assess whether the price of their products and services provides fair value and to review this regularly, they will comply with the price and value outcome. However, 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.

- Firms that meet the value rules in PROD 4 for non-investment insurance or COLL 6.6, COLL 8.5 or COLL 15.7 for asset management will meet the price and value outcome.
- Firms complying with the value rules in PROD 7 for funeral plans will meet the price and value outcome. The Duty, however, also requires such firms to ensure that existing products and services provide fair value for their customers.

**7.54** Firms complying with the value for money rules in pensions in the Conduct of Business Sourcebook (ie COBS 19) are still required to meet our expectations under the price and value outcome. However, they must use assessments carried out by their Independent Governance Committees (IGCs) or Governance Advisory Arrangement

(GAAs) to inform their assessment of whether their products provide fair value. If a firm disagrees with the assessment carried out by an IGC/GAA, they are required to explain why they disagree with the assessment and must set out how their product provides value for money using the framework provided in COBS 19. Firms that do not sufficiently explain why they disagree with the IGC/GAA's assessment or do not take remedial action are at risk of breaching the Duty.

**7.55** Firms subject to price caps, such as the caps for high-cost short-term credit and for claims management activities on financial services claims, are still expected to consider if their charges represent fair value. The price caps represent the maximum that can be charged and consumers can still receive poor value when charged within our set price caps.

## Summary

**7.56** Below we give examples of actions that are likely to be consistent or inconsistent with the Duty.

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
A firm has pricing practices which give no consideration to whether the product or service offers reasonable benefits to customers in relation to the total price paid by them.	A firm carries out a value assessment and documents how the prices of products or services provide fair value to customers in the target market.
A firm alters products or services after launch without consideration of the impact this could have on customers, so a product or service that started out as fair value may no longer continue to meet the requirements.	A firm considers if changes to the products or services benefits have any significant impact on fair value to customers in the target market and either withdraw or amend products or services if they are poor value.
A firm does not regularly review whether its products or services provide fair value and so does not identify a potential issue when it becomes reasonably foreseeable. The firm misses the chance to mitigate the harm before it can materialise, and customers suffer harm.	A firm proactively assesses fair value and identifies a potential issue during its regular review of a product or service and takes appropriate steps. Customers suffer no harm in practice.
A firm has many different products with different charges/fees/prices but with similar levels of benefits to consumers. Some of the charges are high in relation to the benefits provided, and some products do not offer fair value.	A firm considers the reasonableness of its product range and whether each product provides fair value to the customers in the target market.

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
<p>A firm has significantly lower prices for new customers than existing customers. The firm does not consider the impact on different groups of customers and longstanding customers receive poor value.</p>	<p>A firm has different charges for different groups of customers. Customers in all groups receive fair value with a reasonable relationship between the benefits they are likely to receive and the price they pay.</p>
<p>A firm has a product that is priced based on risk, it provides fair value to some groups of customers, but one group pays costs that are disproportionate to the benefits they receive.</p>	<p>A firm has a product that is priced based on risk, all groups of customers receive fair value and the price they pay is reasonable relative to the benefits they receive</p>

## 8 The consumer understanding outcome

### Overview

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- 8.1** Consumers can only be expected to take responsibility where firms' communications enable them to understand their products and services, their features and risks, and the implications of any decisions they must make.
- 8.2** We want firms to support their customers by helping them make informed decisions about financial products and services.
- 8.3** We want customers to be given the information they need, at the right time, and presented in a way they can understand. This is an integral part of firms creating an environment in which customers can pursue their financial objectives.
- 8.4** Our consumer understanding outcome rules retain the obligation under Principle 7 for firms to communicate information in a way which is clear, fair and not misleading. But they also build on, and go further than, Principle 7 by requiring firms to:
- support their customers' understanding by ensuring that their communications meet the information needs of customers, are likely to be understood by customers intended to receive the communication, and equip them to make decisions that are effective, timely and properly informed
  - tailor communications taking into account the characteristics of the customers intended to receive the communication – including any characteristics of vulnerability, the complexity of products, the communication channel used, and the role of the firm
  - when interacting directly with a customer on a one-to-one basis, where appropriate, tailor communications to meet the information needs of the customer, and ask them if they understand the information and have any further questions
  - test, monitor and adapt communications to support understanding and good outcomes for customers
- 8.5** These rules apply:
- to all firms involved in the production, approval or distribution of consumer communications, regardless of whether the firm has a direct relationship with a customer, and includes where a firm produces or approves financial promotions or other advertisements, sales-related communications and post-sale communications
  - at every stage of the product or service lifecycle, from marketing, to sale, and post-sale service
  - to all communications, whether verbal, visual or in writing, from a firm to a customer, including a potential customer, regardless of the channel used or intended to be used for the communication

- 8.6** We expect firms that approve financial promotions on behalf of others to meet the expectations of this outcome where they are relevant to their role. This means that these firms must act reasonably in the circumstances to ensure the communications they approve equip customers to make effective, timely and properly informed decisions. In January 2022, we published a consultation paper on [strengthening our financial promotion rules](#), which includes a section explaining the relationship between these rules and the Duty.
- 8.7** This outcome, along with the entire Duty, applies based on what is reasonable, depending on the nature of the product, the characteristics of the customers, and the role of the firm. Clearly there will be differences in the capabilities of a firm depending on its size and complexity. One question all firms can ask themselves is whether they are applying the same standards to ensure their communications are delivering good consumer outcomes as they do to ensure their communications help to generate sales and revenue. For example:
- communications advising customers on how to switch or complain should be at least as clear as those used to sell the product, with both being clear and understandable under this outcome
  - where firms conduct consumer testing of communications to determine an effective approach to maximise sales, they should use testing capabilities of equivalent standard to test other aspects of consumer understanding to ensure good customer outcomes

## What this means for firms

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- 8.8** This section explains how we expect firms to meet the expectations we have set out above.

### Equipping customers to make effective decisions

- 8.9** Firms should 'put themselves in their customers' shoes' when considering whether their communications equip customers with the right information, at the right time, to understand the product or service in question and make effective decisions. An effective decision will usually be one that maximises the likelihood of a customer achieving a good outcome.
- 8.10** Firms should act in good faith and avoid designing or delivering communications in a way that exploits consumers' information asymmetries and behavioural biases. We have seen consumer harm arise where communications encourage customers to make decisions without full possession of relevant information, for example on costs and exclusions in relation to a particular product or service. For instance, [our investment platforms costs and charges review](#) identified poor practices in relation to charging information, 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

### **Example – poor practice**

In the past we have seen communications from banks that encouraged customers to focus on the daily cost of an overdraft (which appeared small) rather than the significant cumulative cost of borrowing.

This is unlikely to be acting in good faith towards customers or giving them the right information to make properly informed decisions.

### **Example – poor practice**

Ahead of regulating the sector, we saw examples of misleading product information in the funeral plan sector. Our review of product information given to customers suggested that it was often too heavily focused on the benefits that plans provide, and did not give a balanced picture of plan limitations, costs (eg of the increased cost of paying by instalment) or risks (eg that plans may not provide the funeral service).

We expect firms to act in good faith and produce communications that provide a fair summary of the risks and benefits that their products and services provide, to enable customers to make effective decisions and advance their financial objectives.

### **Example – poor practice**

We have also seen examples of online sales journeys where information is presented in a way that exploits consumers' behavioural biases and encourages customers to take out, or make payment for products, using credit. For example, by defaulting into taking out credit over other options, giving much greater prominence to a credit option, or making other options harder to find or access.

Firms must act in good faith and ensure that the options available to consumers are presented in a clear and fair way, and they must go further by ensuring that their choice architecture isn't designed to influence consumers to select a particular option that benefits the firm but may not deliver a good outcome for the consumer.

### **Example – poor practice**

An e-money firm launches a new payment account product.

It notes within its terms and conditions that protections under the Financial Services Compensation Scheme (FSCS) do not apply to this product. However, it fails to draw this important information to customers' attention or explain the implications of this in a way that customers in the target market for the product are likely to understand.

This makes it difficult for customers to make effective and properly informed decisions about whether to purchase the product.

- 8.11** Communications should be understandable by the intended recipients and enable them to evaluate their options by assessing the benefits, risks and costs associated with those options, and how those options relate to their needs and financial objectives.
- 8.12** Firms should consider how the way in which information is presented, including any navigation required, can help to improve or inhibit understanding. Firms should ensure that key information is clear, visible and accessible – not hidden within a large volume of material, or hard to find on a website.
- 8.13** We expect firms to adopt good practices that generally enhance the clarity of communications. This will support consumers in making effective decisions by selecting products that help them pursue their financial objectives. For example, communications can be more effective when they meet the following points.
- **Layering:** This is where key information is provided upfront with cross-references or links to further detail and can be particularly effective online. The key information is likely to include any action required by the customer and any consequences of inaction. If the customer needs to make a choice about a product or service, the key information is likely to include the key features, benefits, risks and costs of that product or service. This is important as [research by the Financial Capability Lab](#) has highlighted that consumers often rely more heavily on the first piece of information they encounter when making decisions. Our research carried out as part of the [Asset Management Market Study](#) found that consumers are less likely to read information that is hidden or requires them to seek it out.
  - When layering, firms should ensure the information they provide is coherent. So, for example, if a firm is providing a package of information to a customer and highlights key product features in a cover letter, those features should be described in a way that is consistent with other documents. If this is not the case, the overall package of information will not be coherent – and this will undermine customers' understanding. Firms should also layer information in a way that is effective. For example, providing some, but not all, information upfront on costs or spreading this information across several documents is unlikely to support consumer understanding. A better approach could be to put all relevant information about a particular issue in one place or layer it in a way so that it is all inter-linked.
  - **Engaging:** Communications should be designed in a way that encourages consumers to engage with them. This is particularly important where the communication is prompting the consumer to act. The key information should be easy to identify. For example, by means of headings and layout, bullet points, display and font attributes of text. Design devices such as tables, graphs, diagrams, graphics, audio-visuals and interactive media can also improve the effectiveness of communications by making them more engaging. For example, [research by the Behavioural Insights Team](#) found that using a question-and-answer format to present key contractual terms improved consumer understanding by 36%. And summarising key terms and illustrating them with explanatory icons – to reduce the amount of information given in one go – increased consumer understanding by 34%.
  - **Relevant:** Firms should consider the appropriate level of detail for each communication. They should take into account what customers need to know, the kind of decision to be made by their recipients where applicable, and where

confusion could arise. For example, information on a simple, low-risk product intended for mass market consumers, such as a personal current account without an overdraft, is likely to involve a different style of communication than would be appropriate for a complex investment or pension product. Firms should avoid unnecessary disclaimers. Key information can be overlooked if detail is provided that is unnecessary for a particular communication, and information overload can deter consumers from engaging with communications. Shorter, concise communications are more likely to be read and understood. Lengthy and technical communications can confuse or overwhelm readers. Firms should help consumers to navigate the information they provide, explaining relevant context and any jargon or technical terms in a simple way. Recent work, such as by Plain Numbers, has demonstrated how seemingly small changes to communications can substantially increase comprehension among consumers. We expect firms to ensure they bring the most important information to the attention of consumers in an accessible way.

- **Simple:** Effective communications will present information in a logical manner. Where possible, jargon or technical terms should be avoided. Where the use of jargon or technical terms is unavoidable, firms should explain the meaning of key terms in plain and intelligible language that consumers are likely to understand. This will also help to build consumers' trust. Absolute costs and standardised terms can help to keep communications simple and aid consumer understanding, helping them to compare different options available to them. Our previous work on Smarter Consumer Communications identified that consumers need simple and clear information and explanations. Examples from our own research show that simplifying text in letters encouraging consumers to claim redress can increase consumer response rates and risk warnings that clearly describe the risks can help consumers better understand the risks associated with high risk investments.
- **Well timed:** Firms should communicate with customers in a timely manner and at appropriate touch points throughout the product lifecycle, such as at contractual breakpoints, giving them an appropriate opportunity to take in the information and, where relevant, assess their options. This will help to put customers in a position where they can make effective decisions on an informed basis.

## Other disclosure requirements

- 8.14** There are a range of legislative and regulatory disclosure requirements that apply to providers of retail financial products and services. These were introduced to ensure that consumers are provided with certain information to help them make effective decisions at key points in the customer journey. Firms should therefore continue to comply with these requirements.
- 8.15** But firms will need to think more widely about the purpose of their communications, and the outcomes they are focused on, to meet our expectations under the Duty.
- 8.16** Where firms must communicate complex information to comply with other disclosure requirements, they should consider what additional steps they can take to support consumer understanding. For example, a layered approach can be helpful in providing context or explaining key information upfront in a simple way, signposting more detailed information that consumers may want to consider or may be helpful for reference at a later date.
- 8.17** Some disclosure requirements provide a framework or template for firms to present key information about their products and services, but there can be areas where firms have discretion to decide what this key information is or how to explain it. Where firms

have this discretion, they should follow the high-level rules and guidance under this outcome. So, for example, firms must ensure that these explanations are likely to be understood by customers and equip them to make effective, timely and properly informed decisions.

**8.18** This outcome is also broader than other specific disclosure requirements and applies to all financial promotions, other advertisements and communications provided to consumers, including verbally – such as during conversations with advisers, online, in letters or product terms and conditions. Firms should therefore consider their communications as a whole and ensure they meet expectations under this outcome.

**8.19** We recognise that some disclosure requirements, including those that stem from European Union (EU) regulations, can be prescriptive about what, when and how firms should communicate information to consumers. Therefore, in some instances, firms may have less flexibility over what they communicate to consumers.

#### **Example – poor practice**

A firm provides a product sales pack to a customer, including cover letter, summary sheet, and full terms and conditions.

The cover letter explains the cost of the product during an introductory offer period; the summary sheet explains the cost of the product at the end of the offer period; and the full terms and conditions explain the costs of cancelling the product. This information is not clearly signposted.

The customer therefore needs to read and digest all three documents to find and understand the total costs associated with the product. This makes it difficult for the customer to identify and understand key information needed to make an effective decision.

Firms should help consumers navigate the information they provide. For example, by putting all information on a particular issue in one place or signpost or layer it in a way so it is all interlinked.

#### **Example – poor practice**

An insurance product has been updated over the course of several years, but the documents for this product have not been reviewed as a whole to make sure they continue to explain the product's features in a way that supports consumer understanding.

The policy summary sets out upfront what is covered by the insurance and some specific exclusions to this cover. However, some newer, but equally important, exclusions are covered elsewhere in the full policy conditions.

This makes it difficult for customers to assess the scope of the insurance and understand when they will, and will not, be covered.

### Example – poor practice

There are other mandatory disclosures which require firms to produce a summary of their products, including the main features and risks.

Firms have discretion to decide which features and risks to highlight and how to explain them.

A firm produces this summary without considering the Duty, including the requirements under the consumer understanding outcome.

The summary is complex and full of jargon and technical terms. This makes it difficult for consumers to understand the product and therefore assess whether it meets their needs.

### Example – good practice

In response to the Covid-19 pandemic, we issued guidance setting out our expectations that credit firms should offer consumers payment deferrals if they experience financial difficulties as a result of coronavirus (Covid-19).

Where payment deferrals were granted, firms were still required to send notices of sums in arrears under the Consumer Credit Act 1974 which included signposting to free debt advice and support. This might have had the potential to confuse some consumers.

We explained that, where statutory notices were required to be sent, firms should provide suitable explanations or context within these statutory notices if they considered that they might otherwise lead to confusion.

This contextual information helps consumers understand even in cases where complex or technical information needed to be communicated.

### Example – good practice

The summary box for savings accounts in our Banking Conduct of Business (BCOBS) rules requires firms to state the rates of interest that apply and provide 'an explanation of the circumstances in which each of the different rates applies.'

A firm has a savings product where various rates of interest apply in different circumstances.

The firm identifies through its testing activity that consumers in the target market for the product struggle to understand the various rates of interest and the different circumstances in which each rate would apply.

The firm therefore simplifies its product, reducing the number of interest rates and conditions applicable to each rate. This enables consumers to more easily understand the product and make effective decisions.

## Ensuring information is provided on a timely basis

- 8.20** Product and service features can change over time, for example, introductory rates come to an end or variations are made to contracts. Customers' circumstances can also change over time. Both factors can result in products and services that no longer meet their needs and objectives.
- 8.21** Firms should be mindful of this and communicate at appropriate points, including any relevant changes, to prompt customers to consider if products and services continue to meet their needs and objectives. For example, they could send out prompts before the end of an introductory offer period – as is already the case under our rules in the mortgage market. But even where there are existing rules in place, firms should consider if there is more they can do to deliver good outcomes by enabling customers to make effective decisions and pursue their financial objectives. For example, sending retail banking customers clear communications explaining the impact of branch closures and alternative services currently available to them or that the firm will put in place.
- 8.22** This is particularly important for longer-term contracts where there is greater scope for circumstances to change. For example, if a firm's monitoring activity identifies that customers are frequently asking the same questions or there are issues commonly causing confusion, it may be appropriate to proactively communicate more broadly with its customers to clarify the issues.
- 8.23** In some cases, this may mean that firms need to communicate more often than they currently do. Conversely, firms should also consider the effect of communicating too frequently, and possibly diminishing the impact of important communications on which action is required. Firms should use the findings from their testing and monitoring of communications to inform their approach.
- 8.24** A firm should provide relevant information at an appropriate stage in the customer journey, giving the customer the opportunity to review the communication before deciding whether to act. This will help enable customers to make effective decisions and pursue their financial objectives.
- 8.25** For example, the customer journey may be short, with little time between a customer selecting a product and completing the application to purchasing it. Firms should provide the customer with the appropriate information on the product (eg costs and default terms) early in the customer journey, in salient and easy to read ways (eg not emphasising the benefits of a product while hiding the costs in fine print), so the customer has sufficient time to take account of this in their decision making.

### Example – good practice

In January 2019, we published the first tranche of our [rules and guidance following our Retirement Outcomes Review](#) rules and [guidance following our Retirement Outcomes Review](#).

This introduced additional trigger points for firms to send pension 'wake-up' packs. At age 50, customers are sent a summary document that includes key information such as pot size and generic risk warnings. This is followed by a full 'wake-up' pack at age 55 and every subsequent five years, which sets out the different options available when accessing pension savings.

These changes are intended to give customers timely, relevant and adequate information about their retirement options to enable them to make an informed decision.

This type of approach is consistent with the aims of this outcome. By providing relevant information at appropriate points during the product lifecycle, it gives customers the opportunity to assess their options in good time – enabling them to make effective decisions and pursue their financial objectives.

### **The communication channel used**

- 8.26** Communications should be effective regardless of the channel of communication used – whether face-to-face in branch, on the telephone or online, for example. Digital communications should be compatible with different mediums, for example computers, tablets or smartphones.
- 8.27** Firms should also ensure they meet our expectations regarding the provision of different channels of communication, as set out under the consumer support outcome. A firm must ensure that, regardless of the channel used for communication, the information provided enables customers to assess whether the options available to them meet their needs and objectives and evaluate any relevant risks.
- 8.28** For example, respondents to our [Smarter Communications Paper](#) suggested that consumers are less likely to read lengthy disclosure documents when applying for a product on a smartphone. So, if a firm is marketing to customers via mobile devices, it should consider the volume of material that customers are likely to meaningfully engage with through this channel. A firm might also consider requiring customers to interact with the firm via another channel before making a decision such as buying a product or service, where the other channel is likely to facilitate a fuller consideration of important information.
- 8.29** Each communication should be considered individually and must comply with the relevant rules. This may be difficult when information is being communicated using certain media with space limits. As explained above, firms should consider using a layered approach, prioritising certain information and supplying additional information later or through other means. If this approach is followed, firms must still comply with the relevant rules and must ensure all relevant information is provided in an appropriate way before a customer makes a decision.

#### **Example – good practice**

A bank identifies where its customers do not have sufficient funds in their accounts to make regular direct debit payments.

The bank sends its customers a short, effective communication through its mobile app or via text message – clearly identifying that it is from the bank – to make customers aware, allowing them time to deposit the funds needed to make payments and avoid additional charges.

This firm acted in good faith in this scenario and used its communication channels effectively to tailor messages that helped customers avoid foreseeable harm.

## Tailoring communications

- 8.30** When designing a product or service, firms are required to define a target market. When communicating about the product, firms should consider the characteristics of the consumers within its target market and tailor communications to meet their information needs. For example, the target market for a complicated investment product may have different information needs than the target market for a simple, mass market product.
- 8.31** When firms are developing communications that are not linked to a particular product or service, they should take into account what they know, or could reasonably be expected to know, about the sophistication, financial capabilities and vulnerability of the intended recipients of the communications and tailor them to meet their information needs as appropriate.
- 8.32** Firms should take particular care when communicating with consumers in vulnerable circumstances, taking account of their needs. They should follow our [Guidance for firms on the fair treatment of vulnerable customers](#).
- 8.33** Firms may wish to consider taking an inclusive design approach to their communications. Inclusive design is a methodology that involves understanding the range of customer needs and designing products and services to be accessible and benefit as many customers as possible. Fair by Design and the Money Advice Trust have produced a [practical guide for firms on inclusive design](#).
- 8.34** For example, [research](#) has found that one in seven adults have literacy skills at or below those expected of a nine- to 11-year-old. Our Financial Lives Survey also found 17.7 million adults (34%) have poor or low levels of numeracy involving financial concepts. So, if a firm is developing communications in relation to a simple mass-market product, for example, we expect them to take these characteristics into account and communicate information in as simple a way as possible to support understanding for these customers. Alternatively, if a firm is communicating in relation to a complex product with a more sophisticated target market, it may be reasonable to do so in a different way.
- 8.35** This is consistent with guidance by the Government Digital Service which instructs individuals to write on GOV.UK web pages for a nine-year-old reading age. Firms may wish to consider external support and guidance available on how this can be achieved, such as [Fairer Finance's work on readability](#). We acknowledge it can sometimes be challenging to simplify communications about financial products and services in this way, but we expect firms to acknowledge the characteristics of their customers and take reasonable steps to support their understanding.
- 8.36** Firms also have a legal duty under the Equality Act 2010 to anticipate the needs of disabled customers and provide reasonable adjustments to enable them to use the service. This can include providing information in an accessible format. For example, it may be reasonable to provide information in braille, audio or another format rather than by letter, for a customer with a visual impairment.
- 8.37** We do not expect firms to tailor all communications to meet the individual needs of each customer or to ensure that each customer understands all of their communications. However, in scenarios where a customer requests specific information or it becomes apparent to the firm that the customer requires specific information or further explanation, for example during dealings with the customer

on a one-to-one basis, we expect firms to respond to this and act reasonably in the circumstances to deliver good outcomes by providing this information in a way the customer is likely to understand.

**8.38** In markets where the provision of advice is a regulated activity, the information provided should not amount to advice unless the firm has an advisory role. Instead, their communications should aim to equip customers with relevant information to make effective decisions in a way that does not amount to the provision of regulated advice.

#### **Example – poor practice**

Firms should design communications with customers in mind rather than focussing solely on what is most commercially efficient.

We have seen cases where firms have sent a single and extremely long communication to all customers, covering a range of issues, with customers left to work out which bits of the communication are relevant to them.

Firms should consider if they can better segment or target communications to make them more relevant to the intended recipients, rather than adopting a 'one size fits all' approach.

This does not mean that firms must tailor all mass communications to meet the needs of each individual customer. But, where appropriate, they should consider the information needs of different groups of customers and communicate relevant information in a way that supports understanding. This will help customers to make effective decisions and pursue their financial objectives.

#### **Example – poor practice**

One customer was unable to read large print and did not know braille. They informed their bank of this and asked to receive communications by email, to allow them to use software to turn the emails into speech.

However, the bank continued to send the customer communications on paper, and not by email.

This firm did not tailor its communications taking into account the known characteristics of the recipient, which it became aware of when interacting directly with the customer on a one-to-one basis.

The firm did not act reasonably to avoid causing consumer harm or enable them to pursue their financial objectives.

### Example – good practice

A firm is developing a communication to send to customers in arrears.

It identifies that the recipients of this communication may be in financial difficulty and therefore at increased risk of harm if the communication is overlooked or misunderstood.

The firm ensures the communication takes this into account by including a prominent message in plain English inviting customers to get in contact with the firm if they need help to understand the communication or would like to discuss their options or the support available.

### Example – good practice

A firm is developing a communication about a simple product designed for the mass retail market.

It drafts the content, where possible, to support the understanding of customers with low literacy or low numeracy skills involving financial concepts.

It signposts a clear way for customers with a hearing or visual impairment to request communications in a format that meets their needs.

## Testing communications to support understanding

- 8.39** Firms may consider their communications to be understandable, but that may only reflect the views of those involved in the design and sign-off of their communications – often legal, compliance and other financial services professionals.
- 8.40** Effective communications are those which can be understood by the customers they are targeted at, not just those involved in their development. Therefore, firms should test communications where appropriate. This testing should check communications can be understood by customers, so they can make effective decisions and act in their interests.
- 8.41** Firms will have different capabilities depending on their size, resources, and activities. So, their approach to testing will vary. As set out above one test firms can apply is that, where they conduct consumer testing of communications to determine an effective approach to maximise sales, they should use testing capabilities of an equivalent standard to test other aspects of consumer understanding to ensure good consumer outcomes.
- 8.42** The rules under this outcome require firms to test communications where appropriate. When considering if testing is required, firms should take into account factors such as:
- the purpose of the communication and, in particular, 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 (for example, it is likely to be more appropriate to test communications that could impact many customers)
- the information needs and vulnerabilities of the intended recipients, including whether the recipients are likely to include significant numbers of individuals with low financial capability who may be less likely to understand the communication, and
- the scope for harm if the information being conveyed were misunderstood or overlooked by customers
- whether it is more important to communicate information urgently to support good outcomes, rather than carrying out testing before the communication is sent to customers

**8.43** Testing should usually be carried out in advance of communicating the information to customers. For example, when firms are developing sales literature or telephony scripts in relation to a new product. However, we recognise that there may be scenarios where firms need to respond to incidents at pace and therefore balance considerations in relation to testing – and the associated elapsed time – with the need to intervene urgently to protect customers from harm. It also may not be possible to test certain communications, such as ad-hoc conversations during customer service calls.

**8.44** Where firms judge it is appropriate to carry out testing of communications, customers' level of understanding could be tested directly by conducting randomised controlled trials or A/B tests; or can be better understood through research approaches such as customer surveys and focus group sessions. As explained above, firms' approach to testing will reflect their capabilities and resources, and Box 1 below gives an illustration of the trade-offs between strength of evidence and resources required for some of the methods available, but we expect all firms to be able to demonstrate they have an approach that delivers good outcomes. This should enable firms to avoid causing foreseeable harm to customers and help customers to be confident they understand products and services and are able to choose those that meet their needs.

**8.45** Firms should develop an approach to testing that provides assurance that customers can identify and understand the information needed to make effective decisions. This information is likely to include:

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

**8.46** But this information can be provided in different ways. It can be located in different places. It may, or may not, be contained within mandatory disclosures and firms' discretion over what and how it is communicated may vary.

**8.47** So, firms should develop an approach to testing that is effective in the context of how they are communicating with their customers and what those customers need to understand. An approach which extracts or signposts key information during testing only for it to be buried within a large package of information in practice will not be effective or meet our expectations.

- 8.48** Whether firms need to test mandatory disclosures will depend on the role the mandatory disclosure plays in the firm's overall approach to ensuring customers understand key information or risks, including whether the firm is providing additional layered material.
- 8.49** As part of testing, firms should consider which questions or outcomes will elicit accurate measures of understanding in an objective way. For example, if the goal of a communication is to convey the cost of a product, an objective follow-up comprehension question would be 'what was the cost of the product?' If the goal was to explain certain product choice options, an objective question would be 'please explain the options available to you' or to ask them to choose the product that would be most suited to them and to explain why.
- 8.50** Firms should aim to carry out testing with a group of customers that is representative of the intended recipients of the communication. For example, they should consider the diversity of their customer base or target market, including different characteristics and potential characteristics of vulnerability. Firms should be mindful that testing will be less useful if a firm does not use a group that is representative of the intended recipients.
- 8.51** It will be more appropriate for firms to test communications where they are responsible for the production of the communication or for adapting it after testing. This might be the product manufacturer if it provides communications for distributors to use, or the distributor if it develops its own communications in relation to a manufacturer's product.
- 8.52** Where a manufacturer is responsible for producing and adapting communications but does not have a direct relationship with customers, its testing activity might consist of randomised controls trials or other approaches, such as focus groups with a representative sample of customers.
- 8.53** Where a distributor uses communications produced by a manufacturer and therefore does not carry out testing activity, it should provide relevant feedback to the manufacturer. For example, this could include cases where its interactions with end customers suggest that certain elements of the communications are causing confusion. This will enable the manufacturer to adapt the communications to improve consumer understanding.
- 8.54** We appreciate that not all customers will engage with, or fully understand, all aspects of communications about financial products and services, or always make decisions in their interests. The aim is therefore for firms to take steps to satisfy themselves, through the appropriate use of testing and evidence, that their communications are likely to be understood by their intended recipients.
- 8.55** By testing significant communications with customers, firms are also able to learn from the findings and adapt communications to improve customer comprehension and support good outcomes. Firms should embed processes of continuous improvement based on robust evidence of customer understanding. The learnings from testing carried out on a communication could usefully inform the approach to take for other similar communications, but firms should be mindful of differences in the content of communications, products and intended recipients, and therefore should not overly rely on this approach.

- 8.56** Firms may wish to train consumer communications champions in the principles of good customer communications. These consumer champions can independently review communications from a consumer angle, and help firms develop and maintain best practice.
- 8.57** Firms’ testing activity may also help to identify products or services that could cause harm to customers, allowing them to take steps to mitigate this risk – which could include modifying sales processes or simplifying products where testing demonstrates widespread customer misunderstanding about them.

**Box 1**

Methodology	Outputs of this approach	Likely complexity and resource requirements
<p>Experimentation in the form of <u>randomised controlled trials</u> or <u>A/B tests</u> with real customers or <u>online experiments</u> (with participants in a ‘laboratory’ setting): comparing understanding of communications by customers between randomly allocated ‘control’ and ‘treatment’ groups.</p>	<p>A direct measure of the level of understanding of a communication, compared to another. 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 and test improvements upon this.</p>	<p>Requires specialist knowledge of experimental design and statistical analysis and a large enough sample of customers or participants to be able to make the comparison in a statistically sound way.</p>
<p>Surveys: asking a sample of customers for feedback and responses via a questionnaire (online or on paper). This could also be integrated into sales processes with follow-up surveys to test understanding. Consideration would need to be given to the likely selection bias this might introduce (whereby the customers who respond may be systematically different from those who do not).</p>	<p>Objective measures of consumer understanding through well designed questions as well as self-reported beliefs and thoughts about a communication.</p>	<p>Good survey design and sampling methodology requires specialist expertise, but it is likely to be less resource intensive than running experiments and can potentially be done on smaller samples of customers. This can be relatively quick and easy to administer, especially if carried out online.</p>

Methodology	Outputs of this approach	Likely complexity and resource requirements
Interviews: structured interviews are effectively verbally administered surveys. Unstructured interviews involve follow-up and elaboration of questions and can be used to explore the views, experiences, beliefs and motivations of individual participants.	Objective measures of consumer understanding through well designed questions and good interview technique as well as self-reported beliefs and thoughts about a communication. This approach can illicit more in-depth understanding of beliefs, for example, than a survey.	Requires expertise in sampling and interview design and technique. Structured interviews can be relatively quick and easy to administer. Unstructured interviews can be more time consuming. In general, interviews are likely to be more time consuming to administer than a survey.
Focus groups: interviews with customers in a group setting that capitalise on communication between research participants in order to generate data. Focus groups using employees could also provide useful feedback and challenge on pilot communications.	This approach 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.

### Example – good practice

A bank is developing a communication marketing a new product to send to a cohort of its customers, some of whom are likely to be in vulnerable circumstances.

As part of the development process, it hires a specialist agency to test the communication through a randomised controlled trial and suggest changes to meet the communication needs of its customers.

It subsequently adapts the communication, increasing the size of certain key text, simplifying the content with infographics and using a colour scheme friendly to people with conditions such as dyslexia. It also prominently includes a contact number, inviting customers to call if they would like to discuss the communication or obtain it in a different format.

This mitigates the risk of harm that could arise if customers do not understand the information provided, for example if they fail to act on it or take out a product that does not meet their needs. This approach supports customers in making effective decisions.

### Example – good practice

A manufacturer is developing a sales communication in relation to one of its products.

The manufacturer does not have a relationship with end customers of the product so tests the communication with a small focus group of customers representative of the target market for the product.

The manufacturer adapts the communication based on the feedback from the focus group and provides it to distributors to use during the sale of the product.

A distributor then sends out the communication but, through monitoring the impact of the communication, identifies a trend of customers being confused about certain elements of the cost of the product – which is covered in the communication. The distributor provides this insight to the manufacturer.

The manufacturer makes further changes to the communication to clarify the cost of the product and support customer understanding.

## Data and monitoring

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- 8.58** Chapter 11 sets out our overall expectations that firms can understand and evidence the outcomes that their customers are experiencing. In this section we highlight elements of monitoring that are specifically relevant to the consumer understanding outcome.
- 8.59** Firms should monitor whether their communications are supporting customer understanding and helping their customers make effective, timely and properly informed decisions.
- 8.60** The testing of significant communications, as outlined above, will help with this. But we also expect firms to consider the impact they expect communications to have, monitor whether this is the case in practice, and carry out further investigation where this is not the case, to identify and remedy any issues to support good customer outcomes.
- 8.61** For example, if there is a notably lower response rate than could reasonably be anticipated following a communication prompting customers to take action, such as to switch product or claim redress, this may indicate that the communication has not supported customers' understanding by providing them with the information they need to make an effective decision.
- 8.62** Firms should ask themselves whether their customers are acting in accordance with their communications. So, for example, if a firm issues a communication asking customers to return certain documentation – are they returning the right documentation in practice? If not, this might again indicate that the communication has not been understood.
- 8.63** Firms should collect and make use of relevant management information (MI) to monitor the impact of communications and identify areas that warrant further

investigation. For example, communication response rates, take-up rates of products where communications prompt customers to switch or take them out, or complaints information – which might directly show that customers are unhappy with a firm's communications approach, or indirectly show that communications are not effective in supporting customers to make informed decisions, for example where there is a trend in relation to complaints about the mis-sale of a product. Even where claims or complaints are not upheld, this may indicate a potential gap in customer understanding for firms to address.

- 8.64** Firms should also monitor the impact of communications during customer journeys. For example, whether customers access additional information in relation to risk warnings when taking out investments – and whether they act on this information. If a firm's monitoring activity does not show that some customers are dropping out of the sales process after viewing, or engaging with, risk information, especially in the case of high-risk investments, this may indicate that their communications are not effective in helping to deliver good outcomes.
- 8.65** Firms should also monitor events or any changes that might impact the content of communications and ensure they remain relevant and up to date with accurate and pertinent information that supports customers in making effective decisions.
- 8.66** Where a firm identifies or becomes aware of a communication produced by another firm in its distribution chain that is not delivering good outcomes for customers, it must promptly notify the issue to the relevant firm in the distribution chain, such as a manufacturer. Firms should also notify the FCA if they become aware that another firm in the distribution chain is not complying with the Duty.
- 8.67** If, through testing or monitoring of communications, firms identify widespread misunderstanding or issues which mean that the communications are not delivering good outcomes, they should take appropriate action. For example, adapting communications to make them more easily comprehensible by the intended recipients. If a communication about a complex product is commonly misunderstood and cannot easily be adapted to support customer understanding, a firm may consider other action such as adapting the sales process or simplifying the product.
- 8.68** We expect firms to exercise judgement and adopt a reasonable and proportionate approach to monitoring communications and taking action where issues are identified. Firms should have appropriate governance processes in place to oversee this process and consider keeping a record of any relevant actions taken.

#### **Example – good practice**

A firm that sells products to customers with a lower ability to withstand financial shocks, and which distributes its products via brokers, also contacts consumers directly to talk about their circumstances and understanding of the product.

Another firm, where the sale is on an execution-only basis, contacts the customer to check that they wanted the product in question and to let them know advice is available.

These firms use proactive communication to monitor the understanding of customers in vulnerable circumstances. This helps to ensure consumer harm is avoided and that customers are supported in making effective decisions.

### Example – good practice

A firm seeks feedback from its customers on the first anniversary of a product purchase. The survey responses highlight that a high number of customers say that they have paid unexpected fees in the first year.

In this situation, we would expect the firm to act reasonably to avoid causing harm to customers by reconsidering how understandable their initial product communications are and making appropriate changes to enable customers to understand the fees and make effective decisions.

## The types of data/monitoring firms could use

**8.69** Firms could use the following types of data to monitor that they are meeting expectations under this outcome:

- the findings from any testing of their communications
- customer response rates to communications which prompt action
- broader analysis of whether customers are following instructions in communications
- analysis of responses to communications during customer journeys, including responses and drop-out rates at each stage
- product take-up rates
- product switching rates
- claim rates, including analysis of declined claims
- relevant complaints data

## Key questions for firms

**8.70** In the table below, we set out examples of the type of questions firms can expect to be asked in their interactions with the FCA in relation to this outcome. We would also expect the Duty champion and the Chair to use this type of question to guide discussions by the firm's board or equivalent governing body.

### Key questions for firms

- Is the firm satisfied that it is applying the same standards and testing capabilities to ensure communications are delivering good customer outcomes, as they are to ensuring they generate sales and revenue?
- What insights is the firm using to decide how best to keep customers engaged in their customer journey, whilst also ensuring its customers have the right information at the right time to make decisions?
- How is the firm testing the effectiveness of its communications? How is it acting on the results?

- How does the firm adapt its communications to meet the needs of customers with characteristics of vulnerability, and how does it know these adaptations are effective?
- How does the firm ensure that its communications are equally effective across all channels it uses? How does it test that?
- What data, MI and feedback does the firm use in its ongoing monitoring of the impact of its communications on customer outcomes? How often is this data reviewed, and what action is taken as a result?

## What this does not mean

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**8.71** These outcome rules do not require firms to:

- Tailor all communications to meet the needs of each individual customer.
- Always communicate with customers via all, or a particular, channel of communication. Firms should however communicate in a way that meets the needs of their customers, including those in vulnerable circumstances. Chapter 9 of this Guidance explains this in further detail.
- Test all communications. Firms should test communications, where appropriate, considering relevant factors including those we set out in our rules and guidance. Where firms judge testing is not required, they should still review communications to ensure they meet the other expectations of this outcome.
- Verify that all individual customers have in fact understood the information provided. Rather, firms should take appropriate steps to satisfy themselves that their communications are likely to be understood by their recipients. However, in certain contexts firms should ask the customer if they understand the information they have been given and if they have any further questions. For example, where the customer is receiving a personalised service or interacting on a one-to-one basis with a firm and being asked to make important or complex decisions.

## Interaction with existing rules

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**8.72** There are existing rules in many sectors about how and what information firms should provide to customers. Firms should continue to follow product-specific rules and guidance where applicable, as they remain necessary to achieve particular outcomes, such as demonstrating suitability or enabling customers to compare products across a market. But this should not stop firms thinking more widely about the purpose of their communications in promoting customers understanding, and the outcomes they bring about – and this may mean doing more than the existing rules require. See also the section above on other disclosure requirements.

## Summary

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**8.73** Below we give examples of actions that are likely to be consistent or inconsistent with the Duty.

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
<p>Firms frame communications in a way that exploits customers' information asymmetries and behavioural biases.</p>	<p>Firms 'put themselves in their customers' shoes' and consider whether their communications equip customers with the right information, at the right time, to assess products and services and make effective decisions.</p>
<p>Firms make no attempt to help customers navigate the information they provide, making it difficult for customers to identify the key information and the options available to them. They rely solely on the tick box of 'I have read the terms and conditions'.</p>	<p>Firms adopt good practices that generally enhance the clarity of communications and, where possible, act to make communications more effective. For example, by layering information, making communications engaging, relevant, simple and timed well.</p>
<p>Firms design communication strategies based solely on what is most commercially efficient, rather than taking into account the information needs of their customers.</p>	<p>Firms aim to segment or target communications to make them more relevant to the intended recipients, rather than adopting a 'one size fits all' approach.</p>
<p>Firms do not consider the information needs of customers after the initial point of sale.</p>	<p>Firms are proactive in thinking about how best to engage and communicate with customers after the point of sale to support good outcomes.</p>
<p>Firms do not adopt a reasonable approach to the testing of communications, either by failing to identify communications where testing would be appropriate, or by following an approach that does not provide a reasonable basis to conclude that their communications are likely to be understood by recipients.</p>	<p>Firms adopt an effective approach to the testing of communications, which provides assurance that important communications can be understood by the target recipients. They adopt a 'test and learn approach', adapting communications where appropriate with the aim of improving customer understanding to support good outcomes.</p>
<p>Firms do not consider the fairness and clarity of their contract terms, which could result in unfair terms that are not enforceable and/or unclear contracts that contain out of date material.</p>	<p>Firms draft and regularly review their contract terms to support good outcomes, and this review includes compliance with the Consumer Rights Act 2015.</p>
<p>Firms do not consider whether their communications contain misleading information or misleading omissions which would be likely to influence a customer's decision making.</p>	<p>Firms ensure their practices and communications are clear, fair and not misleading, and comply with the requirements of the Consumer Protection from Unfair Trading Regulations 2008.</p>

## 9 The consumer support outcome

### Overview

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- 9.1** Consumers can only pursue their financial objectives where firms support them in using the products and services they have bought. A product or service that a customer cannot properly use and enjoy is unlikely to offer fair value.
- 9.2** We expect firms to provide support that meets their customers' needs. The support firms provide should enable consumers to realise the benefits of the products and services they buy, pursue their financial objectives and ensure that they can act in their own interests.
- 9.3** Our consumer support outcome rules set overarching requirements in relation to the support firms provide their customers. They should be read in conjunction with other rules that cover specific elements of the servicing of customers, such as our Dispute resolution: Complaints (DISP) rules. They require firms to:
- design and deliver support that meets the needs of customers, including those with characteristics of vulnerability
  - ensure that customers can use their products as reasonably anticipated
  - ensure they include appropriate friction in customer journeys to mitigate the risk of harm and give customers sufficient opportunity to understand and assess their options, including any risks
  - ensure that customers do not face unreasonable barriers (including unreasonable additional costs) during the lifecycle of a product or service
  - monitor the quality of the support they are offering, looking for evidence that may indicate areas where they fall short of the outcome, and act promptly to address these, and
  - ensure they do not disadvantage particular groups of customers, including those with characteristics of vulnerability
- 9.4** There is a close relationship between the rules under the consumer support outcome and the consumer understanding outcome. Under the consumer understanding outcome firms should communicate with customers in a way that equips them to make effective, timely and properly informed decisions. Under the consumer support outcome firms should enable customers to act on these decisions without facing unreasonable barriers. Firms should keep their obligations under both outcomes at the front of mind in all their interactions with their customers.
- 9.5** This outcome, along with the whole Duty, applies based on what is reasonable, depending on the nature of the product, the characteristics of the customers, and the role of the firm. Clearly there will be differences in the capabilities of a firm depending on its size and complexity. One question all firms can ask themselves is whether they are applying the same consumer support standards to deliver good customer outcomes as they do to help generate sales and revenue. For example:

- firms should make it at least as easy to switch product, leave their service or make a change, as it is to buy the product or service in the first place
- the quality of any post-sale support envisaged in the customer relationship should be as good as the pre-sale support

**9.6** So, for example, firms should consider their call waiting times. Customers should not be waiting significantly longer for their call to be answered in relation to a post-sale issue than to take out a product or service.

**9.7** Firms should also make sure that the support they provide is effective, regardless of the channel used to provide support.

## What this means for firms

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**9.8** This section explains our expectations of firms.

### Providing support that meets the needs of customers

**9.9** The support that firms provide should enable customers to fully utilise the products and services they purchase and act in their interests. Firms should ensure their customers are adequately supported throughout the lifecycle of a product or service after the point of sale – in particular, if they want to make an enquiry, claim, complaint or switch provider.

**9.10** This means that firms should ensure their support processes avoid causing foreseeable harm and enable and support customers in pursuing their financial objectives. Consumer harm can arise due to failings in the support firms provide, such as:

- consistently poor or excessively slow service
- channels of support that do not meet the needs of customers, including customers dealing with non-standard issues, and customers with characteristics of vulnerability
- under-resourced customer helplines, for example where firms disproportionately focus on pre-sales, over after-sales, support
- phone systems, menus or webchats that are difficult to navigate
- badly designed websites that make it difficult for customers to find key information online
- uncertainty around how or where to access support, or poor hand-off processes, including where third parties are involved in its provision

#### Example – good practice

A credit lender has processes in place to ensure it consistently records customers' county court judgments as 'satisfied' on the Register of Judgments when the judgment has been repaid.

This helps to prevent harm that could arise if these customers were to be rejected for credit products or charged a higher interest rate on the basis of inaccurate information recorded against them.

Ensuring county court judgments are marked appropriately as satisfied is an important step that could have an impact on customers' financial health and wellbeing.

### Example – good practice

A claims management company sometimes chooses not to take on a customer's claim where it has concerns that the customer may not be able to pay its fee, or where the potential compensation due to the customer is likely to be below the claims management company's threshold for pursuing a claim.

However, the claims management company makes clear to all customers in these circumstances that there may still be merits to the claim which the customer could pursue directly or elsewhere.

This mitigates the risk that some customers do not continue to pursue their claim as they incorrectly assume they are not due compensation.

### Example – good practice

A firm declines a customer for credit as a result of its affordability assessment. This creates a risk of financial exclusion and harm, particularly if the customer is unaware of alternative options or where to get advice.

However, the firm considers the financial objectives of the customer and signposts them to appropriate information from an independent and reliable source – in this case, they could refer to [the MoneyHelper guide](#).

Under our rules, travel insurance firms must signpost customers with pre-existing medical conditions to a directory of specialist travel insurance providers. This approach is consistent with the aims of the Duty to deliver good outcomes for customers.

Firms, such as those in other insurance markets or in credit markets, should consider if there are useful sources of information they can signpost when they decline customers, using their knowledge of the reasons why customers are declined.

We expect firms to exercise their judgement when deciding what, if any, information would be appropriate to share in different situations.

Firms should be mindful of our rules around arranging and advice. As always, we expect firms to act within the constraints of their regulatory permissions. Firms can satisfy our expectations here without arranging or providing advice, for example by signposting to advice or exploring alternative options for the customer.

## Channels of support

- 9.11** There are many different channels firms use to provide support to their customers including telephone, email, in branch, text, written, webchat and video calls. We do not prescribe which channels firms must offer, but firms must ensure the channels of support they do offer meet the needs of their customers, including customers dealing with non-standard issues, and customers with characteristics of vulnerability.
- 9.12** Firms should monitor the support they provide, take relevant feedback into account, and look for signs that may indicate their channel offering is not sufficient to meet the needs of their customers. Where this is the case, firms should take reasonable steps to address any shortfall in the support they provide.

### *Meeting the needs of customers with characteristics of vulnerability*

- 9.13** Our Guidance on the fair treatment of vulnerable customers provides examples of how different vulnerabilities can make certain channels of support unsuitable. For example, some customers may find it difficult to take in information provided over the phone and have a need for written communications. Other customers may find written communications difficult to deal with and have a need for additional support.
- 9.14** We expect firms to respond flexibly to the needs of customers with characteristics of vulnerability. So, firms will usually need to be able to provide support to their customers through different channels or by adapting their usual approach.
- 9.15** We have included a poor practice example within the consumer understanding section of this Guidance which sets out a scenario where a customer, unable to read large print or braille, asked their bank to send communications by email to allow them to use software to turn the emails into speech, but the bank continued to send the customer communications on paper. This is the type of scenario where we would expect firms to respond to the customer's needs and find a solution that offers effective support, rather than persist with an inadequate approach.
- 9.16** This does not mean that we expect firms to always communicate and provide support through each individual customer's preferred channel, but we do expect firms to provide effective support to their customers in a way that meets their needs.

#### **Example – good practice**

A customer with mental health issues had recently moved their bank account but lost control of their finances and incurred bank charges.

They were able to communicate easily and effectively with their bank through online web chat.

The bank's web chat adviser talked things through with the customer, making them feel genuinely understood and supported, and made sure they received appropriate forbearance.

This firm's consumer support is designed to meet the needs of customers, including those with characteristics of vulnerability. It has acted reasonably to avoid causing harm to the consumer and enable them to pursue their financial objectives.

### Example – good practice

One bank offers access to British Sign Language interpreters in-branch, via an app on branch tablets, and on its website, enabling customers to deal with their affairs from the comfort of their own home.

This service increases accessibility and effectively meets the communication needs of certain customer groups.

This firm's consumer support is designed to meet the needs of customers, including those with characteristics of vulnerability. It has acted reasonably to avoid causing harm to customers and enable them to pursue their financial objectives.

### *Products where support is provided through limited channel(s)*

**9.17** We recognise that a firm could design a product with a digital-only support offering that, for example, meets the needs of a specific tech-savvy target market. Where this is the case, we would not expect the firm to offer an additional non-digital full-service channel to meet the needs of customers outside of this target market.

**9.18** However, where a firm does provide support mainly or only through one channel, such as digital-only, there are various factors for it to consider to ensure it delivers good customer outcomes. In particular, firms should consider the following points.

- **Communicating the support available.** Firms must ensure their products and services are targeted appropriately and the limited channel(s) of support they offer are clearly communicated to customers – in line with expectations under the consumer understanding outcome – before the sale of the product or service, so that customers can assess whether it meets their needs. So, for example, it should be clear to customers that they are signing up for digital-only support if that is the case.
- **Ensuring support works effectively.** Firms must ensure the limited channel(s) of support they offer are effective and enable customers to realise the benefits of their product or service and act in their interests without unreasonable barriers. Unclear or confusing digital (or other) customer journeys will not meet this standard.
- **Dealing with non-standard issues.** Firms should also have exceptions processes in place to deal effectively with non-standard issues that could arise in the context of their business. This could include security or fraud concerns, technical issues, or other more complex or sensitive customer journeys. It is likely that firms will need a real-time human interface, such as a phone service, to deal with some of these issues and provide effective support to customers.
- **Operational resilience.** Firms should be able to continue providing a reasonable level of support to their customers in the event of an issue arising with their services, which might include temporary works, an IT outage, or cyber-attack.
- **Customers with protected characteristics.** Certain characteristics are protected by law. For example, firms have a duty to make reasonable adjustments for disabled customers under the Equality Act 2010. Firms must therefore ensure that the support they offer allows for reasonable adjustments to be made in these circumstances so they can act lawfully.
- **Customers with changing needs.** Firms should also be mindful that anyone, including those who are tech-savvy, 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. For example, a customer in financial difficulties could lose internet or mobile access meaning that a digital-only support offering exposes them to the risk of harm. We expect firms to support customers in these circumstances, including in exiting their product or service where appropriate. This does not mean that firms must provide additional full-service channels, but rather that they have processes in place to prevent harm to these customers and deliver good outcomes.

### **Example – poor practice**

A firm uses an automated telephone system as part of its consumer support.

This automated system only provides options to progress with queries regarding a few commonly raised issues. It does not provide a route for customers to seek support regarding other issues.

As a result, some customers are unable to obtain the support they need or information on how to pursue this further.

This firm's consumer support does not work effectively.

### **Example – poor practice**

A payments firm operates limited channels of support, which it clearly communicates to customers prior to purchase.

When accounts are frozen, the only way customers can communicate with the firm is through a chat function online.

However, questions often go unanswered, or it is unclear whether an issue is being dealt with. Sometimes multiple customer service advisers sequentially enter the same chat and ask the customer the same questions as the previous adviser. This results in customers becoming confused and disengaged.

The firm also does not have a process to provide adequate support to customers in the event of a digital outage.

This firm's consumer support does not work effectively.

### **Example – good practice**

A firm plans to introduce a new digital process for customers to report fraud and security concerns.

The firm trials the process with a group of its customers and asks for feedback. Some customers feel the process is not responsive enough and they are not confident that they have successfully notified the firm of their concern and it is being dealt with quickly.

The firm therefore continues to operate other channels and processes to report fraud and security concerns, while continuing to refine and improve its new digital process.

This firm ensures its support works effectively and meets the needs of its customers.

### **Example – good practice**

A firm changes its channel approach to sell products via its digital app.

The firm adapts its sales journey and literature to work in this medium, using layering and digital tools effectively. Customers are able to easily access and assess key information about the product using a mobile phone.

This firm ensures its consumer support is equally effective across the different channels it uses.

## **Appropriate friction and unreasonable barriers**

- 9.19** Firms should review the design and delivery of their customer journeys and consider the purpose, and impacts, 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.
- 9.20** What amounts to appropriate friction or an unreasonable barrier will depend on the circumstances. We expect firms to apply judgement and be able to distinguish between positive frictions or nudges that support good outcomes and harmful frictions that create unreasonable barriers (sludge practices). Firms should be mindful of the Duty's cross-cutting rules and act in good faith, avoid causing foreseeable harm, and enable and support customers to pursue their financial objectives.
- 9.21** Firms' consideration of friction points should also be informed by their monitoring activity, which will help them to understand how processes are working in practice and the outcomes they are delivering. We expect firms to be able to justify and evidence the customer benefits of additional steps in customer journeys. They should not be overly complicated or designed in a way that benefits firms but not customers.
- 9.22** *Appropriate friction*  
Firms should consider whether they need to build positive frictions into their processes to deliver good outcomes. Firms' commercial and marketing teams can be overly focused on how many clicks are required to purchase a product, how long it takes, and drop-out rates – leading to excessive streamlining of processes to ensure high conversion rates.
- 9.23** But sales and other processes without appropriate friction or nudges can risk customers purchasing products that they do not fully understand or are not right for them. Customers should be provided with the right information and given appropriate time to make important decisions.

**9.24** Additional steps in customer journeys can therefore be in their interests. Where this is the case, the friction would not amount to an unreasonable barrier. For example, steps designed to prevent fraud or make sure customers are aware of the consequences of cancelling a contract can benefit customers. They can also help to prevent poor decisions. For example, when customers are making investment decisions, slowing the sales process may help avoid foreseeable harm, as highlighted in our communications around high-risk investments by immature investors.

#### **Example – good practice**

A firm sells a high-risk investment product online on an execution-only basis.

As part of the sales process, it requires customers to watch an educational video on investment risks, the benefits of diversification and regulatory protections, before purchasing the product.

While some customers may consider this to be an unnecessary step, it has been designed for the purpose of supporting them in making informed decisions and to reduce the risk of harm that could arise if they purchase a product and it is not right for them.

Therefore, this is unlikely to amount to an unreasonable barrier under the consumer support outcome as the firm has acted to avoid causing harm to its customers, enabling them to pursue their financial objectives.

#### **Example – good practice**

A payments firm considers how it can best design its processes to help identify suspicious payments and mitigate the risk of poor customer outcomes.

It embeds appropriate warnings and confirmation of payee messages into its processes. Confirmation of Payee is a name-checking service aimed at preventing both authorised push payment scams and accidentally misdirected payments. It works by checking whether the name of the account that a payer is sending money to matches the name they have given to their payment service provider.

This is an example of positive friction as the process is designed for the purpose of preventing consumer harm.

### ***Sludge practices***

**9.25** On the other hand, there can be commercial incentives for firms to create friction points (often called 'sludge') that deter their customers from taking action in their interests, such as making a complaint or switching product or provider. Even where firms do not set out to create sludge, they can fail to give adequate attention and provide appropriate support where customers seek to take action that does not benefit the firm. This is not consistent with the Duty.

- 9.26** Firms' consumer support should enable customers to get what they paid for, for example by making a claim under an insurance policy or withdrawing funds from a savings account, without facing unreasonable barriers. Firms should consider the steps they take to support customers wanting to buy their products and services and make it at least as easy to switch out of a product, leave their service or make a change, as it is to buy in the first place.
- 9.27** 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.

#### **Example – poor practice**

An insurance firm has a complex claims process which deters many customers from pursuing claims. This process includes a requirement for customers to provide hard copies of all evidence. The firm refuses to consider any requests from customers to waive this requirement.

A firm may have legitimate claims handling requirements, such as a need to give notice when the loss event occurs, or to provide adequate evidence of the loss. But the means of making a claim should be easy to find and the firm should not impose unreasonably restrictive, rigid or arbitrary administrative requirements on customers that create barriers to them making a claim.

This firm would be unlikely to be regarded as acting in good faith or enabling its customers to realise the expected benefit of the insurance product they have bought including making a claim without unreasonable barriers.

#### **Example – poor practice**

A firm is increasing the interest rate on one of its savings products which will benefit customers who hold that product.

However, the firm requires customers to logon to its website, access their account and find a page with a discreet radio button that needs to be selected for the increased rate to be added.

The firm has designed this process as it knows through its behavioural analysis of its customers that many will not take these steps and therefore it will not need to pay additional interest to these customers.

A firm acting in line with the Duty would use its behavioural analysis as evidence of the need for a simpler approach to support good outcomes, enabling its customers to easily obtain the increased interest rate.

### Example – poor practice

During our work to assess the implementation of the Coronavirus Tailored Support Guidance we identified that some firms used digital tools when providing financial help. However, we found evidence of some 'sludge' practices which can add friction to the customer journey and, in some cases, may prevent customers from pursuing their financial objectives.

These practices included:

- customers using third party digital tools having to register and log on to more than one system or platform to complete the automated forbearance journey
- customers having to click on multiple boxes to reveal additional text to help inform their decision-making and customers using third party digital tools having to wait a day or more before receiving confirmation of their payment plan or if they need to provide further clarity

### Example – poor practice

A firm requires its customers to contact them by phone if they want to switch to a different provider. Once on the phone, customers are subjected to a lengthy process during which they are encouraged not to switch.

This type of practice would represent an unreasonable barrier under the consumer support outcome if it prevents customers from pursuing their financial objectives.

Where a product is taken out online, a visit to a branch should not normally be required to close the product. In general, this should be possible via the same process or means (ie online in this instance). Firms may also provide other options to close the product, for example by phone – provided it does not involve a process designed to deter customers from acting in their own interests, such as described above.

## Unreasonable additional costs

**9.28** The support firms provide should not lead to the product costing more than customers expected up-front. Firms should avoid causing harm to customers by making sure that their consumer support does not impose unreasonable additional costs, including unreasonable exit fees or other charges, delays, distress or inconvenience.

**9.29** We acknowledge that product terms and conditions can include contractual provisions relating to early termination – but firms should not impose unreasonable exit fees. In general, 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 material provisions relating to early termination, including exit fees, should also be clearly drawn to customers' attention, as appropriate, in line with our expectations under the consumer understanding outcome.

- 9.30** Some delay, inconvenience or cost during interactions between firms and customers might not be unreasonable depending on the 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 our DISP complaint handling rules which require firms to respond to a complaint within eight weeks).
- 9.31** There may be cases where delays in customers getting support would not be regarded as unreasonable. For example, a firm's call centres may experience unforeseeable demands leading to long wait times, or a firm may need to prioritise dealing with certain claims over others at times of high demand. There may also be occasions when firms' systems are down for routine maintenance, or an upgrade, and some services may be impacted or unavailable for a period.
- 9.32** As explained above, firms should ensure their post-sale support is as good as their pre-sale support. To make sure this is the case, 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.
- 9.33** We note that, under our Senior Management Arrangements, Systems and Controls (SYSC) rules, firms must have systems and controls in place to effectively manage their businesses, and firms should also ensure they comply with our final rules and guidance for firms to strengthen operational resilience in the financial services sector as set out in PS21/3. So, firms should have reasonable processes in place to deal with strain on their operations when issues arise.
- 9.34** When issues or other scenarios impact the delivery of consumer support, firms should ensure that customers are kept informed of events, in line with the consumer understanding outcome.
- 9.35** Further, different levels of inconvenience or delay may be reasonable in different circumstances. For example, a delay that is reasonable for a customer looking to amend a standing order may not be reasonable for a customer trying to disable a credit card that has been stolen.
- 9.36** We expect firms to ensure that customers are not exposed to unreasonable additional costs as a result of how their products are serviced and we expect them to use proportionate resources to meet expected demand.

#### **Example – poor practice**

A retail banking customer telephones their bank in good time to transfer money from a savings account into a current account, to avoid going overdrawn.

The customer waits on hold for a long time, without good reason, and is unable to get through to an agent to make the transfer, despite trying to do so throughout that day. They were also unable to transfer the money online due to an issue with the firm's online banking service.

This results in the customer going overdrawn and incurring charges.

### Example – poor practice

A claims management company pursuing employment claims is under-resourced, and customers' claims take longer than they should do to progress. Some take four or five months, which leads to claims timing out and customers losing out on compensation due to them.

The claims management company tries to take on as many claims as possible without the resource or processes to support this volume. Sometimes there is a wasted cost order imposed where the company has failed to draft the particulars of the claim properly before a tribunal deadline – this also results in a loss of compensation for some customers.

### Example – good practice

An unforeseeable event causes a surge in demand for a firm's consumer support.

The firm has reasonable processes in place to manage unexpected surges in demand and diverts resource to deal with this, prioritising the most urgent and significant requests.

This means that some customers will experience a delay. The firm posts a prominent notice on its website and social media to inform customers of the situation, as well as a message when customers first contact its helpline. It sets out a process for customers to escalate urgent issues.

In this example, the firm has acted reasonably to avoid causing harm to customers and acted in a way that is consistent with the consumer support standards.

### Example – good practice

A firm notices a trend of customer service calls being terminated by customers before they are answered through its monitoring activity.

It diverts additional resource to handle these calls to ensure they are answered in a timely manner.

It also identifies those customers who terminated their call before it was answered and proactively makes contact with them to see if they require additional support.

## Dealing with representatives and other firms

### *Customer representatives*

- 9.37** Where a person is authorised by a customer, or by law, to assist in the conduct of the customer's affairs (such as where power of attorney applies), firms should provide the same level of support to that person as they would have provided to the customer. This does not mean that firms must treat this person as having the same characteristics of vulnerability as the customer they are representing, if the customer is in vulnerable circumstances. It means they should also receive an appropriate standard of support and not face unreasonable barriers when acting on behalf of the customer. We also expect firms to respond flexibly, and provide effective support, in light of any characteristics of vulnerability the person representing the customer may have.

#### **Example – poor practice**

We have seen evidence in banks of past weaknesses in their bereavement procedures. Some weaknesses were apparent to representatives, in terms of over-complex and inconsistent processes and excessive demands on them. Others have been less apparent, with banks' over-reliance on manual processes contributing to errors and poor outcomes, including sums not being returned accurately and appropriately to beneficiaries.

Banks have been remediating customers affected by such errors or omissions, including updating account information and remedying any shortfalls where possible. They are also putting in place better processes going forward, to deliver simpler, more consistent and better controlled bereavement customer journeys, and better treatment and support of representatives in those sensitive circumstances.

### *Firms' dealings with other firms*

- 9.38** The consumer support outcome rules do not apply to scenarios where a regulated firm is dealing with another firm on behalf of a customer – for example, where a mortgage intermediary is dealing with a lender – this would constitute a normal business relationship between a manufacturer and distributor.
- 9.39** However, firms must not cause harm to customers due to shortcomings in the way they deal with other firms. Firms must deal with reasonable 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 to customers.

#### **Example – poor practice**

An adviser recommends a customer moves assets to a new investment platform.

The adviser communicates the instruction to switch the customer's assets to the existing investment platform. However, as there is no commercial benefit to the existing platform in the customer making this switch, it fails to deal with this request in an effective and timely manner.

The adviser regularly contacts the existing platform to check on progress, but it is slow in responding, fails to explain the reason(s) for the delays and/or give an indication of when the switch will be actioned.

Unreasonable delays in the moving of assets between investment platforms are likely to result in poor outcomes for the end customer.

### **Outsourcing**

- 9.40** 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 firms are outsourcing or using a third-party provider, the usual regulatory principle applies in that firms are responsible and accountable for all the regulatory responsibilities applying to outsourcing and third-party arrangements. Firms cannot delegate any part of this responsibility to a third party.
- 9.41** This means that if a firm chooses to outsource elements of its consumer support to a third party, it is responsible for ensuring the support provided meets the Duty standard. The firm should have systems and controls in place to monitor this and provide assurance that it is meeting its regulatory obligations. More information on our expectations in relation to outsourcing can be found on our webpage [here](#).

### **Data and monitoring**

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- 9.42** Chapter 11 sets out our overall expectations that firms can understand and evidence the outcomes that their customers are experiencing. In this section, we highlight elements of monitoring that are specifically relevant to the consumer support outcome.
- 9.43** Firms should regularly monitor whether they are providing an appropriate level of support to customers to identify and mitigate the risk of consumer harm and ensure they meet the standard set out under this outcome.
- 9.44** This means that firms must ensure the support they provide enables customers to realise the benefits of products or services and act in their interests without unreasonable barriers, including unreasonable additional costs. This guidance explains when and how these issues may arise but, as explained above, we do not intend to set rigid standards in this area and firms should consider what these terms mean in the context of their business and design systems and processes to monitor this.
- 9.45** We expect firms to be able to demonstrate that they have thought about how to design and deliver consumer support that meets the expectations under this outcome and monitor that they continue to do so. For example, firms may have processes and management information (MI) to check that existing customers receive a level of support consistent with this outcome and are not overlooked in favour of supporting prospective customers.
- 9.46** Firms should consider information available on customer behaviour and feedback to identify whether customers, or particular groups of customers, are encountering unreasonable barriers, including unreasonable additional costs, as part of firms' consumer support provision.

- 9.47** 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.
- 9.48** However, firms should be mindful that customers do not always report issues when they arise. Research by the Institute of Customer Service carried out in January 2022 has found that in the banks and building societies sector, 18.6% of customers who experienced a problem with an organisation did not report it. In the insurance sector the figure is 17.5%. It is important therefore that firms do not inadvertently miss consumer support issues that may not be immediately apparent from some headline data sources.
- 9.49** Where a firm's consumer support is provided by an outsourced third party, either in whole or in part, we expect the firm to have systems and processes in place to monitor that the support meets the standard set out under this outcome. For example, the firm might collect relevant MI or conduct outcome testing activity to provide assurance that an appropriate level of consumer support is being delivered.
- 9.50** Where firms identify that their consumer support, or elements of the support they provide, do not meet the expectations under this outcome, we expect them to take appropriate action to remedy this. If this relates to consumer support provided by an outsourced third-party, they may work to improve the standards or choose to make alternative consumer support arrangements.
- 9.51** If, for example, a firm identifies that a systemic or recurring issue in the delivery of its consumer support 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 commensurate with the benefit that was difficult to utilise or proactively contacting customers to explain the issue and the steps they can take to fully utilise the product or service.
- 9.52** We recognise that, on occasion, individual customers will have a poor consumer support experience. Where this occurs, we expect firms to act in good faith and deal with this promptly and fairly, providing redress where appropriate, to deliver a good outcome for that customer. See Chapter 5 for more detail about how firms should consider redress as part of our cross-cutting rules.

#### **Example – good practice**

A firm carries out analysis of the root causes of complaints it receives.

It identifies that many customers have made complaints about the difficulties they encountered when attempting to switch provider.

Lots of these complaints note that the firm's phone system direct them to a particular department to take this action, but they are then required to wait on hold for a significant amount of time, with no indication of when their call might be dealt with or the option of a call back.

Customers are often cut-off without being able to speak to an adviser, requiring them to call back and make multiple attempts to take action.

The firm subsequently investigates and makes changes to its phone system to improve the process. This mitigates the risk of consumer harm and better supports customers acting in their interests to pursue their financial objectives.

Although this firm provides a poor level of support to its customers, its monitoring approach represents good practice.

### The types of data/ monitoring firms could use

**9.53** Firms could use the following types of data to monitor that they are meeting expectations under this outcome:

- analysis of customers' 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

**9.54** In the table below, we set out examples of the type of questions firms can expect to be asked in their interactions with the FCA in relation to this outcome. We would also expect the Duty champion and the Chair to use these type of questions to guide discussions by the firm's board or equivalent governing body.

#### Key questions for firms

- How has the firm satisfied itself that its 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 about whether its customer support is meeting the needs of customers with characteristics of vulnerability? What data, MI and customer feedback is being used to support this assessment?
- How has the firm satisfied itself that it is at least as easy to switch or leave its products and services as it is to buy them in the first place?
- How has the firm satisfied itself that the quality of any post-sale support is as good as the pre-sale support?
- What data, MI and feedback is the firm using to monitor the impact its consumer support is having on customer outcomes? How often is this data monitored, and what action is being taken as a result?
- How effective is the firm's monitoring and oversight of outsourced or third-party service providers, and is it confident that these services meet the consumer support standards?

## What this does not mean

**9.55** These outcome rules do not require:

- Firms to always provide support to customers via multiple different channels. Firms should however provide support that meets the needs of their customer base and target market.
- Firms to provide support through a particular channel, although they should respond flexibly to the needs of customers in vulnerable circumstances and adhere to the general principle that it should be at least as easy to exit a product or service as it is to enter it.
- Firms to guarantee that their consumer support processes will never experience issues or delay. Firms should have reasonable processes in place to deal with strain on their operations when issues arise. Where individual customers do not get the support they need, we expect firms to deal with this promptly and fairly, providing redress where appropriate, to deliver a good outcome.
- Firms to streamline customer journeys to such an extent that they create the risk of consumer harm or remove steps that provide customer benefits. However, firms must be able to justify and evidence the customer benefits of additional steps or friction and they should not unreasonably elongate or complicate customer journeys for their own benefit.

## Interaction with existing rules

**9.56** The Duty is compatible with, but does not replace, existing FCA Handbook rules that set specific requirements for the servicing of customers (eg providing information, complaints handling). This outcome sets overarching expectations in the area of consumer support and firms may need to go beyond existing rules covering specific aspects of the servicing of customers in order to deliver good outcomes for customers.

## Summary

**9.57** Below we give examples of actions that are likely to be consistent or inconsistent with the Duty.

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
Firms disproportionately focus on supporting customers up to the point of sale, with little focus or support for customers after purchase.	Firms have processes that support customers throughout the product and service lifecycle: pre-sale, during sale and after-sale.
Firms streamline customer journeys as much as possible to maximise sales but to the detriment of customers making effective decisions.	Firms ensure there is appropriate friction in their customer journeys to support their customers in making good decisions.

Actions likely to be inconsistent with the Duty	Actions likely to be consistent with the Duty
Firms add unreasonable additional steps to their customer support processes that deter their customers from acting in their interests.	Firms design and deliver the support they provide in a way that enables customers to realise the benefits of the products and services they buy and act in their interests.
Firms have ineffective customer support processes and communication strategies to deal with unexpected surges in demand.	Firms have effective customer support processes and communication strategies to deal with unexpected surges in demand for support.
Firms have a rigid approach to the provision of customer support that doesn't effectively take into account the needs of their customer base, target market or customers with characteristics of vulnerability.	Firms design and deliver the support they provide to meet the needs of their customers. They adopt a flexible approach when dealing with customers with characteristics of vulnerability.
Firms have an ineffective approach to monitoring that fails to identify systemic issues with their customer support processes.	Firms regularly monitor the customer support they provide to make sure there are no systemic issues that create unreasonable barriers or costs for customers.

## 10 Culture, governance and accountability

### Overview

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- 10.1** The Duty sets a higher expectation for the standard of care that firms give customers. For many firms, this will require a significant shift in both culture and behaviour, so they consistently focus on customer outcomes, and put consumers in a position where they can make effective decisions.
- 10.2** Firms should ensure that the interests of their customers are central to their culture and purpose and embedded throughout the organisation.
- 10.3** The rules require firms to ensure their strategies, governance, leadership, and people policies (including incentives at all levels) lead to good outcomes for customers. The rules also make clear that we expect customer outcomes to be a key lens for important areas, such as Risk and Internal Audit.
- 10.4** 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.
- 10.5** Individual accountability and high standards of personal conduct in firms will ensure that firms are meeting their obligations under the Duty.

### What this means for firms

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- 10.6** Culture is critical to delivering good outcomes for customers. There are four drivers of culture, and firms will need to ensure that acting to deliver good outcomes is central to each.
- **Purpose** – the firm's purpose should be consistent with the Duty. Staff should understand how the firm's purpose is relevant to delivering good outcomes for customers.
  - **Leadership** – the firm's leaders should be competent and accountable, and they should demonstrate commitment to delivering good outcomes for customers.
  - **People** – delivering good outcomes for customers 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** – the firm's controls and key processes should be set up in a way which enables it to identify where the firm is not delivering good outcomes for its customers, and it should have a strategy in place to understand and tackle the root causes and manage and mitigate poor outcomes.

## Governance and accountability

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- 10.7** The Duty requires firms to ensure that acting to deliver good outcomes is reflected in their strategies, governance, leadership and people policies, including incentives at all levels. Customer outcomes should be a central focus of their risk and internal audit processes. Firms must also ensure that their staff incentives, performance management frameworks and remuneration structures are designed in a way that is consistent with ensuring good outcomes for customers.
- 10.8** A firm's board or equivalent governing body is responsible for ensuring that the Duty is properly embedded within their firm, and we will hold senior managers accountable through the Senior Managers & Certification Regime (SM&CR), as explained below.
- 10.9** We expect a firm's board or equivalent governing body to ensure that the Duty is being considered in all relevant contexts, such as considering the impact of their governance and remuneration policies on delivering good outcomes for customers and ensuring that customer outcomes are a key lens for risk and internal audit functions.
- 10.10** We expect firms to have a champion at board (or equivalent governing body) 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 with group structures, we 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 we would not necessarily expect the same level of formality in smaller firms.

### Board report

- 10.11** 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.
- 10.12** This assessment should include:
- the results of the monitoring that the firm has 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
- 10.13** Before signing off the assessment, the board or equivalent governing body should agree the action required to address any identified risks, or any action required to address poor outcomes experienced by customers and agree whether any changes to the firm's future business strategy are required.
- 10.14** This assessment will be part of the evidence we use to assess a firm's compliance with the Duty. We expect to be provided on request with the report and the management information (MI) that sits behind it.

## Key questions for firms

**10.15** In the table below, we set out examples of the type of questions firms can expect to be asked in their interactions with the FCA in relation to their governance arrangements and the Duty. We would also expect the Duty champion and the Chair to use these types of questions to guide discussions by the firm's board or equivalent governing body.

### Key questions for firms

#### *Culture and Governance*

- Does the firm's purpose (whether publicly articulated or not) 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 for customers?
- How does the organisation ensure that 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 for customers? 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 outcomes for customers?

#### *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 for customers?
- Has the firm identified the key risks to its ability to deliver good outcomes to customers 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

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- 10.16** We expect the focus on acting to deliver good outcomes to be at the heart of firms' strategies and business objectives. This should be supported by individual accountability and personal conduct resulting from the Senior Managers & Certification Regime (SM&CR).
- 10.17** The SM&CR aims to establish healthy cultures and effective governance in firms by ensuring greater individual accountability at all levels and setting minimum standards of personal conduct.
- 10.18** The SM&CR Duty of Responsibility and the Senior Manager Conduct Rules establish clear senior management responsibility for complying with the requirements and standards of the regulatory system and that applies to the Duty as it does to other Principles and rules.
- 10.19** The Duty imposes expectations across the product lifecycle including design, distribution and delivery of products and services and each senior manager must take responsibility for the role they can play in delivering compliance with it.
- 10.20** 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 with the requirements of the Duty on an ongoing basis. Senior managers should expect to be asked about the role that they will play in delivering good outcomes for customers when they are seeking approval or engaging with us.
- 10.21** 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.
- 10.22** Individual conduct rule 6 reflects the new, higher standard of the Duty, and the behaviour we expect 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.
- 10.23** 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.
- 10.24** Where firms, such as payment and e-money firms, are not subject to the SM&CR we still expect them to ensure that they have senior management oversight and accountability for the Duty, and to ensure that their staff are acting in accordance with the requirements of the Duty.

# 11 Monitoring outcomes

## Overview

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- 11.1** A key part of the Duty is that firms assess, test, understand and are able to evidence the outcomes their customers are receiving. Without this, it will be impossible for firms to know that their products and services are working as they and their customers would have expected and in a way that is consistent with the Duty.
- 11.2** Firms have to be able to identify poor outcomes and take appropriate action to rectify the causes of the poor outcomes. They must also continuously learn from their focus and awareness of the outcomes that their customers experience in practice.
- 11.3** 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.
- 11.4** Our rules therefore require firms to:
- monitor and regularly review the outcomes their customers are experiencing to ensure that the products and services that firms provide are delivering outcomes 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
- 11.5** 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

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- 11.6** Firms will need to identify relevant sources of data to enable them to assess whether the outcomes that their customers are experiencing are consistent with their obligations under the Duty.
- 11.7** Through the monitoring of customer outcomes, we 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

- 11.8** The action that firms should take when they identify problems 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 (where appropriate)
- 11.9** If asked, we 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.
- 11.10** 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. See chapter 10 for further detail.
- 11.11** The Duty is intended to improve outcomes for all customers, and we would expect firm monitoring to identify where distinct groups of customers, such as customers with characteristics of vulnerability or customers who share protected characteristics (as defined by the Equality Act 2010 or equivalent legislation), get worse outcomes than other customers. Where firms identify an area where they are not delivering good outcomes for their customers or a distinct group of customers, we would expect the firms to have processes in place to investigate the cause(s) and address any problems. It should be noted, however, that the Duty does not alter or replace firms' existing obligations under the Equality Act 2010 to avoid direct and indirect discrimination.
- 11.12** This requirement is not limited to characteristics of vulnerability and protected characteristics, although those are important. We expect firms to use their judgement and monitor to see whether any distinct groups of customers are receiving worse outcomes than others. Groups that firms could consider might include, for example, longstanding customers, customers from a particular geographical region or customers who buy a product through a particular distribution channel.
- 11.13** As with the whole Duty, one question firms can ask themselves is whether they are applying the same standards and capabilities to monitoring customer outcomes as they are to generating sales and revenue. For example, is the firm using the same levels of segmentation and analysis to monitor outcomes as they are to target sales?
- 11.14** 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 to us.
- 11.15** Firms should also assure themselves that they are complying with legal obligations, such as those in the Equality Act 2010 and data protection legislation.

## What firms should monitor

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- 11.16** Firms will need to collect information to monitor the outcomes that their customers are receiving. Firms will need to be able to provide evidence of their monitoring and assessment of these outcomes and any resulting action, on request.
- 11.17** 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.
- 11.18** 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 for customers. Below, and in the four outcome chapters of this Guidance, we have included examples of the types of data firms can use.
- 11.19** Firms will need to produce and regularly review MI on customer outcomes. This MI should be appropriate to the nature, scale and complexity of their business, considering the size of the firm, the products and services they offer, and the customer base they serve.
- 11.20** Clearly, there will be significant differences in the capabilities of firms. In general, we would expect firms with more sophisticated data strategies to have more detailed monitoring strategies. One question firms can therefore ask themselves is whether they are using the same MI capabilities they use to inform other elements of their business, such as product development or sales, to also monitor outcomes.
- 11.21** Firms will need to develop a strategy to gather the relevant information and data to inform their assessment of whether they are delivering good outcomes for customers and to meet their governance obligations. We expect firms to continually review and develop their frameworks.
- 11.22** While complaints data can be a valuable source of information, firms should develop MI that goes beyond complaints data to gain better insight and assurance on customer outcomes.
- 11.23** 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.
- 11.24** Some forms of monitoring will be more frequent than others. For example, we would expect firms to 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.
- 11.25** The requirement to monitor outcomes does not interfere with the requirement for firms to comply with the relevant data protection legislation. Monitoring should be carried out in compliance with these obligations.
- 11.26** There is no prescribed format for the way in which firms evidence their monitoring of customer outcomes, but we expect firms to maintain records so that they can be provided to us on request.

- 11.27** Firms should also maintain records of the issues that they identify, and the action that they take to address those issues. Firms need to be able to explain how they reached a decision on the right intervention, and to demonstrate how that intervention has delivered better consumer outcomes (and, if not, what they have done further to address the issue).
- 11.28** We expect firms to comply with existing FCA rules for record-keeping. For example, our existing record-keeping requirements set an expectation that firms have records that are sufficient to enable us to monitor the firm's compliance with the requirements under the regulatory system.
- 11.29** Where firms are outsourcing or using a third-party provider, the usual regulatory principle applies. Firms are responsible and accountable for all the regulatory responsibilities applying to outsourcing and third-party arrangements. This means that firms will need to have arrangements in place with their outsourcers to capture any data necessary to enable them to monitor whether they are delivering good outcomes.
- 11.30** Where firms are outsourcing or using a third-party provider and that provider is an authorised firm carrying out a regulated activity, such as debt collection, both the firm who are outsourcing the activity and the third party will need to monitor whether they are delivering good outcomes for their customers.
- 11.31** Where a firm is subject to existing requirements which meet our expectations under the Duty, such as in relation to the products and services outcome or the price and value outcome, and those existing rules include monitoring requirements, firms may follow the existing monitoring requirements to meet the monitoring requirements for those outcomes. That monitoring should form part of the wider assessment of whether firms are delivering good outcomes for their customers.

## The types of data/information firms could use

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- 11.32** 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.
- 11.33** Types of information firms may want to collect include:
- **Business persistence:** analysis of customer retention records – e.g. claims and cancellation rates and details of 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; use of different communications channels including digital; consumer testing of user interfaces and design such as websites and apps, and 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:** analysis of 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** such as manufacturers and distributors 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 feed back 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.

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

### **Monitoring outcomes for consumers with characteristics of vulnerability and protected characteristics**

**11.35** We want consumers with characteristics of vulnerability to experience outcomes as good as those for other consumers, and we want consumers who share protected characteristics to experience good outcomes that are consistent with the Equality Act 2010. Effective monitoring and evaluation by firms is crucial to achieving this.

**11.36** Firms should produce and regularly review MI on the outcomes they are delivering for customers with characteristics of vulnerability. 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 to improve outcomes.

- 11.37** Firms should support their staff to identify signs of vulnerability, for instance through training and resources, and to set up systems and processes that enable customers to disclose their needs if they choose to. This should enable firms to capture information about customer needs, such as communication needs or information about customers' characteristics of 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.
- 11.38** In order to satisfy our monitoring requirements, we do not require firms to systematically collect data or to collect new data about customers' protected characteristics, for example to ask customers about their ethnicity. However, where firms do already collect data about customers' protected characteristics, we expect them to use this data to monitor differences in outcomes between different groups, where possible.
- 11.39** We recognise that using data about customers' protected characteristics in this way will not always be possible. As set out above, the requirement to monitor outcomes does not interfere with the requirement for firms to comply with the relevant data protection legislation. Firms should assure themselves that they are complying with legal obligations under the Equality Act 2010 or equivalent legislation and data protection legislation.
- 11.40** Special category data needs more protection because it is sensitive. In order to lawfully process special category data, firms must identify both a lawful basis under Article 6 of the UK GDPR and a separate condition for processing under Article 9. These do not have to be linked.
- 11.41** See Appendix 1 of our [Guidance for firms on the fair treatment of vulnerable customers for information](#) about data protection considerations that firms should take into account.
- 11.42** There is a range of ways that firms can gain insight into the experiences and outcomes of customers who share protected characteristics, without requiring their customers to disclose this information. For example, firms could consider the following points.
- They could conduct research into the experiences and needs of a particular group of customers. For example, they could consider 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 could help a firm to gain insight into the needs and experiences of that group.
  - An audit of customer journeys could identify differences in experience or frictions that affect certain groups of customers but not others.
  - Firms could 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.
  - Firms might be able to 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.

- 11.43** We expect firms to be proactive when evidence emerges that consumers who share protected characteristic are disproportionately experiencing harm or are vulnerable to harm. We 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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