

Introduction

The FCA want to see a higher level of consumer protection in retail financial markets, where firms are competing vigorously in the interests of consumers. They are proposing to introduce a new 'Consumer Duty', that would set higher expectations for the standard of care that firms provide to consumers. For many firms, this would require a significant shift in culture and behaviour, where they consistently focus on consumer outcomes, and put customers in a position where they can act and make decisions in their interests.

The Consumer Duty would require firms to:

- **ask themselves what outcomes consumers should be able to expect from their products and services;**
- **act to enable rather than hinder these outcomes; and**
- **assess the effectiveness of their actions.**

In essence, they want to see firms putting themselves in their customers' shoes, asking themselves questions such as 'would I be happy to be treated in the way my firm treats its customers?', or 'would I recommend my firm's products and services to my friends and family?'.

The Consumer Duty would add to the range of regulatory tools the FCA use to meet their strategic objective of making markets work well. It would bring together their consumer protection and competition objectives and help create an environment where consumers are better equipped to achieve good outcomes from financial services. **To enable this, all firms would need to ensure that their products and services are fit for purpose and offer fair value, and that their communications and customer service enable consumers to make and act on well-informed decisions.**

Whom This Paper May Apply To

- **regulated firms, including electronic money institutions,**
- **industry groups / trade bodies**
- **payment institutions and registered account information service providers**
- **consumer groups and individual consumers**
- **policy makers and regulatory bodies**

Scope of These Proposals

These proposals apply to firms in relation to their regulated activities. The FCA proposals relate to products and services sold to 'retail clients'. **This is a very wide term that includes all clients other than professional clients (such as large corporate entities and government bodies) and eligible counterparties.** So in most cases, where the FCA regulate the provision of financial services to SMEs, these proposals would apply. **Their proposals extend to firms that are involved in the manufacture or supply of products and services to retail clients, even if they do not have a direct relationship with the end customer.** The FCA refer to the markets covered as 'retail markets'. In this Consultation Paper they use the terms 'consumer' and 'customer' to mean retail clients who are within the scope of these proposals, including those the firm does not deal with directly. They use 'consumer' when talking about the wider group of those who use financial services. The FCA use 'customer' when talking about an individual firm's customers or potential customers.

Consumer Harm

The FCA continuously see 'consumer harm' and below are the main points that they have in their sights:

- firms providing information which is misleadingly presented or difficult for consumers to understand, hindering their ability to properly assess products/ services;
- products and services that are not fit for purpose in delivering the benefits that consumers reasonably expect, or are not appropriate for the consumers they are being targeted at and sold to;
- products and services that do not represent fair value, where the benefits consumers receive are not reasonable relative to the price they pay.
- poor customer service that hinders consumers from taking timely action to manage their financial affairs and making use of products and services or increases their costs in doing so
- other practices which hinder consumers' ability to act, or which exploit information asymmetries, consumer inertia, behavioural biases, or vulnerabilities. Where these occur, consumers suffer harm. They may:
 - find it harder to make an informed or timely decision
 - buy products and services that are inappropriate for their needs, of inadequate quality, too risky or otherwise harmful
 - incur greater monetary and non-monetary costs
 - receive sub-standard treatment during their relationship with a firm
 - find it harder to switch or get a better deal

Measures being introduced would be:

- a new **Consumer Principle** that provides an overarching standard of conduct; and
- a set of **Cross-cutting Rules and Outcomes** that support the Consumer Principle by setting clear expectations for firms' cultures and behaviours.

The FCA expect to publish the second consultation by 31 December 2021 and will make any new rules by 31 July 2022. The full consultation paper can be found here

<https://www.fca.org.uk/publication/consultation/cp21-13.pdf>



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