

## Consumer Duty - a fundamental shift in industry mindset

The FCA has now twice consulted on introducing a new 'Consumer Duty', comprising of a new Consumer Principle, cross-cutting rules, and four outcomes, which together would set clearer, higher expectations of firms providing retail financial services.

The consultation papers are available [here](#) and [here](#).

In this article, Matthew Hazell, Traci Pham and Sam Mugridge discuss the new FCA proposals and the impact on firms.

### FCA proposals

The FCA have stated that it continues to be concerned by continued poor practice in retail financial services industry with evidence that consumers are not experiencing good outcomes. This includes:

- Firms providing information which is misleadingly presented or difficult for consumers to understand, hindering their ability to assess products/services properly and make good, timely decisions;
- Products and services that do not represent fair value, where the benefits consumers receive are not reasonably relative to the price they pay;
- Poor customer service that hinders consumers from taking timely action to manage their financial affairs or increases their expense in doing so;
- Other practices which hinder the consumers' ability to act, or which exploit information asymmetries.

## Consumer Principle

The proposals includes a new 'Consumer Principle' stating:

### 'A firm must act to deliver good outcomes for retail clients'

The FCA considers that this Consumer Principle sets a higher standard than Principles 6 and 7, and has proposed that where the Consumer Principle applies, **Principles 6 and 7** will no longer apply.

## Cross-cutting rules

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

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

The rules will be inserted in a new chapter PRIN 2A in the FCA Handbook, after PRIN 2 (The Principles).

## Four outcomes

The FCA is also proposing a set of four outcomes and associated rules under the Consumer Duty, relating to:

- **Products and services** - this outcome involves extending product governance requirements across all retail products, with different rules for manufacturers and distributors.
- **Price and value** - the FCA has noted it does not propose to set out detailed requirements in how firms assess fair value, but emphasises that value needs to be considered in design and distribution stages of a product, and that low prices do not always mean fair value.
- **Consumer understanding** - the FCA expects firms to focus much more on consumer outcomes and understanding throughout the customer journey.
- **Consumer support** - firms must provide an appropriate standard of support to customers, so that customers can use products as reasonably anticipated, and do not face unreasonable barriers.

## What does this mean for your firm?

These rules are intended to represent a transformation in how the FCA regulates the retail sector. Firms will have to actively demonstrate they are thinking about the consumer throughout the product lifecycle and there will be a more proactive expectation on firms compared with the existing rules.

The FCA have also clarified that, even where the firm may not have a direct relationship with the end consumer, it expects these firms to “look through” and consider the consequential impact of their actions on the end retail customer.

All firms should therefore ensure they are aware of the FCA’s expectations with regards to treating retail customers fairly and consider the potential impact of these new rules on their business model.

The FCA plans to publish a Policy Statement with final rules by the end of July 2022. You can read the consultation paper [here](#).

For more information or advice, contact your Newgate consultant.



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