

30 January 2023

Dear CEO/Director

Implementing the Consumer Duty in the Consumer Investments sector

The Consumer Duty is a significant shift in our expectations of firms. It introduces a more outcomes-focused approach to consumer protection and sets higher expectations for the standard of care that firms give customers.

We are sending this letter to firms in the Consumer Investment sector to help them implement and embed the Duty effectively. This letter sets out:

- A reminder of the implementation timeline, key elements of the Duty and how it applies to firms in the Consumer Investment sector
- Our expectations for how firms should embed the Duty in the Consumer Investment sector, including relevant examples of good and poor practice
- Feedback from our recent review of firms' implementation plans
- Our approach to supervising the Duty in the Consumer Investment sector and planned next steps

We expect the Consumer Duty to be a top priority for you personally. We want good outcomes for customers to be at the heart of firms' strategies and business objectives, and leaders have a key role to play here. Firms' Boards and senior management should embed the interests of customers into the culture and purpose of the firm.

Your timeline for introducing the Duty

In July 2022 we published final rules and guidance for firms, and set out the following timeline for firms to implement the Duty:

- By the end of October 2022 firms' boards or management bodies should have agreed their plans for implementing the Duty
- By the end of April 2023 manufacturers should have completed all reviews necessary to meet the outcome rules and shared necessary information with their distributors
- The Duty comes into force on 31 July 2023 for new and existing products or services that are open to sale or renewal
- On 31 July 2024 the Duty comes into force for closed products or services.

While our work on the Duty pre-dates the cost-of-living crisis, it is particularly important as consumers face increasing pressures on both their household finances and decisions affecting their financial future. Even before the crisis, consumers were being asked to make an

increasing number of complex and important decisions in a faster and increasingly complex environment. But the crisis underlines the need for high standards and strong protections. It is more important than ever that consumers can make informed, effective decisions, act in their interests and pursue their financial objectives.

How the Duty applies to firms in the Consumer Investments sector

The Duty applies to products and services offered to retail customers, and to all firms who determine or have a material influence over customer outcomes - not just those with a direct customer relationship. We've set out some more information about how the Duty applies to firms in Consumer Investments in Annex 1 to this letter.

Overview of the requirements of the Duty

The Finalised Guidance we published in July provides firms with a full explanation of the requirements of the Duty, including many helpful examples of good and poor practice.

The Duty requires firms to act to deliver good outcomes for retail customers. Firms must act in good faith towards customers, avoid causing them foreseeable harm, and enable and support them to pursue their financial objectives. Firms should consider the diverse needs of their customers – including those with characteristics of vulnerability (see chapters 4-5 of the Guidance).

The Duty also introduces new rules and guidance to ensure that:

- **Products and services:** are designed to meet the needs, characteristics and objectives of a specified target market (chapter 6)
- **Price and value:** Products and services provide fair value with a reasonable relationship between the price consumers pay and the benefit they receive (chapter 7)
- **Consumer understanding:** Firms communicate in a way that supports consumer understanding and equips consumers to make effective, timely and properly informed decisions (chapter 8)
- **Consumer support:** Firms provide support that meets consumers' needs throughout the life of the product or service (chapter 9)

A key part of the Duty is that firms are able to define, monitor, evidence and stand behind the outcomes their customers are experiencing (chapter 10). This monitoring must enable firms to identify where customers, or groups of customers, are experiencing poor outcomes, and where this is the case firms must take appropriate action to rectify the situation.

The Duty does not have a retrospective effect and does not apply to past actions by firms. However, the Duty applies, on a forward-looking basis, to firms' ongoing work for existing customers (chapter 3).

Our expectations for how firms should embed the Duty in the Consumer Investments Sector

Whilst you should consider all elements of the Duty, this letter sets out four initial areas where particular focus is needed in light of our Consumer Investments strategy and the harms in the sector. We expect the senior management of your firm to carefully consider the contents of this letter and, in light of the issues it sets out, take any necessary steps to ensure that your firm will be compliant with the Duty on 31 July 2023 for new and existing products or services.

These four areas are:

- **Mainstream investments:** Consumers are at risk of receiving services that do not meet their needs or represent poor value, which may be due to the nature of the service(s) they are receiving and/or the underlying charging structure. Firms need to review if their products and services are delivering fair value. Where problems are identified, we expect firms to fix them. We will be paying particular attention to how Platforms, Wealth Management firms and Financial Advisers deal with the price and value requirements of the Duty. We have already shared some [concerns with fair value for financial advisers](#). We also consider that more needs to be done to speed up transfers between investment platforms and to improve the support provided to non-advised consumers.
- **Higher risk investments:** Some consumers continue to be invested in unsuitable high risk investments. Firms need to ensure that their products and services are appropriately designed for the needs and objectives of their target market, and that they are being promoted and distributed effectively. We are particularly concerned that the [design of trading apps](#) may lead to poor consumer outcomes. We expect firms to have effective oversight of introducers, with additional scrutiny of any unregulated introducers.
- **Scams and Fraud:** Too many consumers are still losing money due to scams and fraud. Firms must act to avoid causing foreseeable harm to their customers and take appropriate action to help stop consumers falling victim to scams and fraud.
- **Consumer Redress:** We expect firms to act in good faith when they identify they have caused harm (either through action or inaction), and to take appropriate proactive action to rectify the situation, which may include redress. Redress should be paid promptly when it is due.

More detail on these issues and how they apply to firms in the Consumer Investments Sector, grouped by the relevant Consumer Duty outcome, is set out in Annex 2.

Feedback from our review of implementation plans

On 25 January we [published feedback](#) for firms on the implementation plans we have reviewed. This feedback contains examples of good practice, and areas for improvement, which will be useful for all firms to review as they implement the Duty.

Many of the plans we reviewed showed that firms have understood and embraced the shift to focus on consumer outcomes, established extensive programmes of work to embed the Duty, and are engaging with the substantive requirements.

However, we did also identify plans that suggested some firms may be further behind in their thinking and planning for the Duty. This brings a risk that they may not be ready in time, or they may struggle to embed the Duty effectively throughout their business.

We have identified three key areas where firms should particularly focus their attention during the second half of the implementation period (to 31 July 2023):

- **Effective prioritisation:** We saw some plans where it was not clear what the basis was for prioritising some implementation work ahead of other aspects. Firms should make sure they are prioritising appropriately, focusing on reducing the risk of poor

consumer outcomes and assessing where they are likely to be furthest away from the requirements of the Duty.

- **Embedding the substantive requirements:** We saw some plans that suggested firms may have considered the requirements superficially or are over-confident that their existing policies and processes will be adequate. We urge firms to carefully consider the substantive requirements of the Duty, so that when they are reviewing their products and services, communications and customer journeys, they identify and make the changes needed to meet the new standards.
- **Working with other firms:** To implement the Duty on time, many firms need to work and share information with other firms in the distribution chain. However, some firms may need to accelerate their work on this important aspect of implementation.

Firms should be considering where and how they work with third parties to deliver products and services to customers, and making sure these arrangements will meet expectations under the Duty. This includes other firms in the distribution chain and where firms outsource the delivery of services to other parties. In particular, manufacturers and distributors will need to work together and share information. We recognise that investment distribution chains can be complex and relationships can be challenging. However, it is also essential for firms to recognise this and to invest the necessary time and commitment to meet the deadlines set out above.

As they oversee the implementation of the Duty, firms' boards and management bodies will want to particularly focus and provide challenge in the three areas above, as well as the wider points in the feedback published online. We expect you to contact us as soon as possible if you feel your firm will not be compliant by the July 2023 deadline.

Our supervisory approach and next steps

The Consumer Duty is a cornerstone of the FCA [three-year strategy](#), and a key element of our work to set and test higher standards between now and 2025. It is being prioritised at every level of the FCA, from the Board down, and will drive our supervision strategies and prioritisation.

The areas highlighted in this letter are likely to be the primary focus of our future supervisory work. We may ask you for evidence of how you have made the necessary changes to your business in light of the Duty and this letter, either in the course of our ongoing engagement with your firm, by phone call, or during a visit to your premises. You should expect to see us acting much faster and more assertively where we find firms not meeting the requirements of the Duty.

We recognise the efforts that firms are making to implement the changes to meet our requirements under the Duty. We are committed to supporting you as you implement the Consumer Duty, and this letter (when read with the [guidance](#)) aims to provide helpful clarity on how the Duty applies in situations relevant to the sector. However, we recognise the Duty is a significant piece of regulation that cuts across all aspects of your business. We will continue to work with industry to support understanding and make our expectations clear.

We will continue our work to support firms' embedding activities in the run-up to the July 2023 implementation deadline. In addition to this letter and our online resources, we are hosting a series of [in-person events](#) aimed at small and medium sized retail investment firms, across the UK between February and June 2023. We are also working with an external research agency

that will soon be sending a short survey to a sample of firms. This anonymised survey will help us understand the progress firms are making in implementing the Duty and will inform our ongoing communications to firms.

For more information:

- Read our Consumer Duty [Policy Statement \(PS22/9\)](#) and [Finalised Guidance \(FG22/5\)](#)
- Consider our [feedback](#) on our **review of implementation plans**
- Visit our **Consumer Duty homepage** www.fca.org.uk/firms/consumer-duty where you will find additional information about the Consumer Duty, on-demand webinars and [podcasts](#), and the option to sign up for email updates
- If you have any questions, you can **email us** at firm.queries@fca.org.uk

Yours sincerely

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Annex 1 – How the Duty applies to firms in Consumer Investments

In this annex we cover the application of the Consumer Duty to firms in the Consumer Investments sector.

Application to small and large firms and Appointed Representatives

The Duty applies to all firms that can determine or materially influence retail customer outcomes, so it applies to all firms in the Consumer Investments sector: small and large. However, how a firm implements the Duty is likely to vary depending on the scope of its business and its size. A larger firm might set up a dedicated project team to lead the necessary reviews and updates. A smaller firm might decide to use the services of a Compliance specialist to help them understand how the Duty will impact their business, or they might set aside some time to review the Policy and Guidance and other supporting materials to create a gap analysis and implementation plan.

When monitoring outcomes, smaller firms will generally have simpler business models and may not need to apply the same processes as a larger, more complex firm. In general, we would expect firms with more sophisticated data strategies to have a more detailed approach.

If you are a Principal firm, you should ensure that you have appropriate controls in place to effectively oversee your ARs' activities and ensure that your ARs comply with the Duty.

The distribution chain

The Duty applies to all firms in the distribution chain for a product or service that will reach a retail customer: i.e. all firms involved in the manufacture, provision, sale and ongoing administration and management of a product or service to the end retail customer.

To understand how the Products and Services and Price and Value outcomes apply to their business, firms will need to consider their role as a manufacturer and/or a distributor. Firms that are manufacturers should aim to complete their assessment against the Duty outcomes by April 2023, so they can provide the results to their distributors for them to complete their assessment in time for July 2023. We recognise that investment distribution chains can be complex and relationships can be challenging. However, it is also essential for firms to recognise this: we expect firms to invest time and commitment to meet these deadlines.

Under the Duty, firms can be manufacturers of services as well as products. So, for example where a wealth management firm offers discretionary management services, they would be a manufacturer of that service.

We often see distributors working with other firms to co-manufacture products and services: e.g., bespoke Discretionary Managed Portfolio Services / fund ranges and white-labelled platforms. Where this is the case, the firms are likely to be classed as co-manufacturers and would need to have a written agreement setting out their respective roles and responsibilities under the rules.

What the Duty doesn't do

The Duty covers all aspects of a firms' service delivery to retail consumers, but there are a number of things it doesn't do. The Duty doesn't:

- protect insistent customers from making poor decisions or acting in a way that a firm might consider to be against their interests
- mean consumers can or will be protected from all harm; for example, firms are not required to remedy the effects of all risks inherent in a service or product
- create a fiduciary relationship where one doesn't already exist
- go beyond the scope of a firm's regulatory requirements (e.g. require a firm to provide advice without permission to do so), or
- apply retrospectively to actions by firms before the Duty came into force – it will, however, apply on a forward-looking basis to existing products and services.

We also don't expect firms to ensure customers always receive good investment returns: clearly many investments carry a risk of loss. 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 (amongst other things) on the nature of the product offered by the firm, and the adequacy of the firm's product design and distribution, communications and customer services.

However, with all of the above in mind, it is important that firms keep in mind the overarching requirements of the Duty, 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.

Annex 2 – Key things for firms in the Consumer Investments sector to consider

In the main letter we explained how the Consumer Duty supports our existing Consumer Investment strategy. In this annex we set out our expectations in more detail, grouped by the relevant Consumer Duty outcome.

Products and services outcome – chapter 6

Many firms will be familiar with rules on product governance from our PROD rules, which have been in place since 2018. However, the scope of this outcome is broader than PROD. For example, it introduces rules to firms that manufacture services as well as products, so it will impact financial advice firms who manufacture their advisory services, wealth managers manufacturing their discretionary investment management services, and platforms manufacturing their platform service, as well as other firms that provide services to consumers. Firms need to consider their specific circumstances in light of this outcome, and whether they need to make changes to ensure compliance. Compliance with PROD alone is unlikely to mean that a firm is complying with the Duty as a whole.

Our concerns

- We continue to have concerns that consumers are being exposed to unsuitable high risk investments. In our [Consumer Investment Strategy 1 year update](#), we identified that 5.7m of UK adults hold high risk investments, and over half of this group demonstrated one of more characteristics of vulnerability or had a low appetite for investment risk.
- Our [research](#) on trading apps has identified that the design of some apps may lead to poor consumer outcomes, particularly for vulnerable customers.
- We continue to have concerns about the adequacy of due diligence carried out on the investments all Consumer Investment sector firms provide consumers with access to.
- We continue to have concerns about firm's use of unregulated introducers, and how this can lead to customers being in unsuitable or fraudulent investments.

Our expectations

- We expect firms to have identified a clear target market for their products and services, and this should be done at a sufficiently granular level. This is particularly important for any products or services that are not aimed at the mass market, or that pose an increased risk of harm.
- Firms need to ensure the design of products and services meet the needs, characteristics and objectives of all groups within the target market, with due consideration being paid to any vulnerable customers.
- We expect firms to ensure that the intended distribution strategy for the product or service is appropriate for the target market, and to carry out regular reviews to ensure that the product or service continues to meet the needs, characteristics and objectives of the target market, the distribution strategy remains appropriate, and the product or service is only being distributed to customers in the target market.

Our expectations (cont.)

- We expect firms to carry out adequate due diligence of any investments they provide access to and be able to demonstrate that they have done so. This applies even where an adviser has asked for an investment to be added to a SIPP or other investment platform. As a distributor, the firm would need to understand the product, its target market and the intended distribution strategy to be able to ensure the product will be distributed in accordance with the needs, characteristics and objectives of the target market.
- We expect firms to have effective oversight of introducers, with additional scrutiny of any unregulated introducers.

Price and value outcome – chapter 7

Consideration of price and value will not be a new concept for most firms in the sector. However, the Duty introduces new requirements in this area which mean firms will need to review their approach, with many needing to make improvements.

Our concerns

- Some consumers may be receiving services that do not meet their needs and represent poor value.
- In particular, we are concerned that some clients of financial advisers may be getting ongoing services that do not meet their needs and/or represent value for money. In our [2020 evaluation of the impact of the Retail Distribution Review \(RDR\) and Financial Advice Market Review \(FAMR\)](#) we found adviser charges were clustered at a small number of round price points, and that more expensive advice services did not have noticeably different features to cheaper services.
- Some firms may have charging structures that disadvantage particular customer groups. For example:
 - a high fixed fee is unlikely to represent fair value to a platform customer with a small investment value; and
 - we are concerned that some customers of wealth or advice firms are paying unfair prices and receiving poor value for money, whilst high net worth and other customers of the firm receive significant discounts on standard fees without appropriate justification or clear parameters to ensure consistency.
- Some firms may be levying fees that do not take into account the fees elsewhere in the value chain.
- Some customers may end up in high charging and/or low quality investment solutions due to firms placing them in default solutions that are not appropriate for their needs. This is a particular risk for firms who acquire clients following the acquisition of other firms.

Our expectations

- We expect firms to review whether their charging models are delivering fair value for their customers. As part of this, firms should consider whether the price different groups of consumers are paying is reasonable relative to the benefits they receive. This could mean they identify specific groups of consumers for whom their charging model may not offer fair value. Where firms identify problems, we expect them to act to fix them.
- Charging different prices to different groups of customers is not necessarily a breach of 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.
- We also expect firms to consider the fees customers may pay elsewhere in the value chain. How they do this will depend on whether they are a manufacturer or a distributor:
 - As a manufacturer: firms must carry out a value assessment of the product or service, considering its costs and benefits. It will also need to consider the expected total price customers will pay, including all applicable fees and charges over the lifetime of the relationship between customers and firms. 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.
 - As a distributor: firms must carry out a value assessment to understand the outcome of the manufacturer's assessment of value and ensure the distribution arrangements are consistent with the product or service providing fair value to customers. Firms need to consider if their own charges, when combined with the other charges a customer is paying – often referred to as the 'total costs of solution' – mean the product or service no longer provides fair value. In doing this, firms can group similar products together where the customer base, complexity and risk of harm are sufficiently similar.
- Where firms acquire clients from other firms, we expect them to consider whether clients are receiving fair value as part of the acquisition strategy and associated processes. Relevant factors are likely to include any differences in the products/services recommended and the associated level of charges, as well as the frequency of transactions and charges borne by clients prior to and following the acquisition process.

Consumer understanding and support outcomes – chapters 8 and 9

Many aspects of these outcomes will be familiar to firms, as they align with messages we have given in the past relating to communications, financial promotions, behavioural science, and firms' operations. However, the Consumer Duty also introduces some new requirements on firms, which impact areas where we have a number of pre-existing concerns.

Our concerns

- We remain concerned that the cost and impact of poor advice is too high, and borne by consumers or passed to other firms through the FSCS levy. We are also concerned about the level of FSCS costs driven by SIPP and other pensions claims.
- We are concerned that high FOS uphold rates suggest that firms may not be dealing with complaints as promptly and fairly as they could be.
- We are concerned that there are still significant numbers of consumers who may be due redress that is being challenged or delayed by firms.
- We are also concerned that some firms refuse to acknowledge that liabilities might arise, and in doing so fail to adequately prepare (causing poor customer outcomes).
- We are concerned there are still too many consumers losing money due to scams and fraud.
- We are concerned consumers are not getting the support they need to make effective, timely and properly informed decisions with their pensions and other investments.
- We are concerned that some customers are still waiting too long for their platform transfer to be completed, and believe there is more work to be done across the industry to reduce transfer times.
- We are concerned that firms do not explain their charges in a clear and understandable way.

Our expectations

- We expect firms to act in good faith when they identify they have caused harm (either through action or inaction), and to take appropriate proactive action to rectify the situation, which may include redress. Redress should be paid promptly when it is due.
 - Firms should be considering the wider implications of individual complaints and whether they indicate systemic failures which will require a more holistic approach.
 - We expect firms to take an objective view towards potential liabilities. Where a firm identifies that it has caused customers harm, either through its action or inaction, it must act in good faith by taking appropriate action to rectify the situation. This includes considering proactively whether remedial action, such as redress, is appropriate.
 - We expect firms to undertake any remedial action promptly, including paying redress when it is due and in the absence of/or in advance of FOS complaints and/or decisions, where appropriate, given the length of time these can take.
 - Seeking to avoid/challenge redress where it is due or delaying payment is not in line with providing good consumer outcomes under the Duty. We have seen examples of this in firms with SIPP redress liabilities, which we would expect to cease with the implementation of the Duty.
 - Firms must meet the requirements of the Duty on a forward-looking basis when conducting these activities – for example when drafting new customer communications or providing support to customers – even if the underlying problem arose before the Duty comes into force.

Our expectations (cont.)

- We expect firms to help stop consumers falling victim to scams and fraud. For example, firms should have systems and controls in place to help to prevent transfers to fraudulent investments and to make consumers aware of the risk of scams.
- We expect firms to give consumers 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.
- We expect firms to provide support that meets their customers' needs, so they realise the benefits of the products and services they buy.
 - What support consumers need depends on the complexity of products, for example, pensions products are some of the most complex products consumers face. Firms should put themselves in the consumers shoes, and consider their information and support needs in the build up to retirement, and post initial-access of their pension.
 - Under the Duty, firms are required to enable and support retail customers to pursue their financial objectives, and to provide them with information that supports effective decision making. Where customers are dealing with complex products or decisions, for example pensions and retirement, firms must ensure that the support they are providing results in good customer outcomes. Firms should not be reticent to provide such support simply because they are being overly cautious about coming closer to the boundary between regulated financial advice and guidance.
- We expect firms to do more to reduce platform switching times. The Duty guidance states 'firms should make it 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'. We continue to support the efforts of STAR, and we will continue to take action where we see firms falling below the standards we would expect.

Cultural change

For many firms, the Duty will require a cultural change. In order to have a good understanding of consumer outcomes, firms will need to clearly understand the impact their business has, positive and negative, through the lens of their customers.

Firms need to consider how they can ensure employees are acting in ways that support good consumer outcomes, and in accordance with the cross-cutting rules 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

A key area for consideration will be remuneration policies: 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 not structure remuneration or sales targets in a way that could provide an incentive to employees to

recommend a particular product or service when an alternative would better meet a customer's needs.

Cultural change cannot be achieved simply by making adjustments to governance, MI and processes. These can support change, but firms' senior management need to clearly demonstrate to employees what putting good consumer outcomes at the heart of their business means in practice. Firms which view the Duty as simply a change to governance and processes are unlikely to succeed in delivering good consumer outcomes.

Firms will need to pay as much attention to good consumer outcomes as they would to any other significant aspect of their business, such as their level of profit and loss. Whilst we recognise that firms can't always ensure good outcomes, we expect firms to be proactively working to deliver good customer outcomes: it is not enough just to avoid bad outcomes.