

Preparing for the FCA's new Consumer Duty

Appendix A: Preparing for the Duty: the 'no regrets' actions firms can take

The FCA expects the Consumer Duty (the Duty) to improve outcomes for consumers throughout the firm-consumer relationship. Though still at consultation stage, in our view, the areas targeted by the four outcomes are unlikely to change significantly. The FCA has clearly been thinking about the outcomes for some time, as evidenced by the level of detail provided and the fact that a number of the instances of harm it cites as informing its thinking dates back several years.

If firms are not already testing against these outcomes, they should begin to do so without delay. Our paper [Improving Customer Outcome Testing | A practical guide for Boards](#) provides suggestions to firms on approving their approach to outcomes testing. There are also number of 'no regrets' actions firms can take to begin preparing for the outcomes.

Outcome 1: Communications equip consumers to make effective, timely and properly informed decisions about financial products and services.

To achieve this outcome, the FCA proposes to implement high-level rules and guidance which would, in summary, require that firms communicate in a way that is 'reasonably likely to be understood' and take proportionate steps to review, test and adapt communications to ensure they are reasonably likely to be understood.

The FCA expects firms to 'put themselves in their customers' shoes' and consider whether their communications convey the right information, at the right time. Whilst the proposals would not require firms to verify that all individual customers have understood the information they have been provided, in certain contexts, the obligation it would impose 'may require a reasonable degree of checking of individual understanding'.

'No regrets' actions:

- Perform a risk-based assessment to identify whether key communications are giving customers the information that they need, at appropriate points in their customer journey.
- Understand what testing is currently undertaken on customer communications, and where such testing needs to be improved.

Outcome 2: Products and services are specifically designed to meet the needs of consumers and sold to those whose needs they meet.

The FCA proposes to introduce rules and guidance that, in summary, would ensure that products are designed to meet an identified customer need, perform as customers would reasonably expect and are distributed to the target market.

The FCA acknowledges that the Product Intervention and Product Governance Sourcebook (PROD) and its guidance on The Responsibilities of Providers and Distributors for the Fair Treatment of Customers (RPPD) cover much of the substance of its proposals. However, PROD does not apply to all markets and the RPPD does not have the status of rules.

Firms would be expected to monitor their products and services to ensure they remain consistent with the identified need for the target market, and deliver expected outcomes. The FCA states that the Duty will not apply to past business and firms may have queries about the FCA's expectation regarding the monitoring of closed books or legacy products.

'No regrets' action:

- Perform a gap analysis against PROD and the RPPD to identify products or services that are not currently meeting these standards.

Preparing for the FCA's new Consumer Duty

Appendix A: Preparing for the Duty: the 'no regrets' actions firms can take

Outcome 3: Customer service meets the needs of consumers, enabling them to realise the benefits of products and services and act in their interests without undue hindrance.

The rules and guidance to implement this outcome would require that firms' customer services do not unduly hinder consumers from realising the benefits of products and services, or lead them to incur unreasonable additional costs.

The FCA does not provide a detailed definition of what constitutes 'undue hindrance', saying that it 'will depend on the circumstances'. However, the FCA wants it to be at 'least as easy to exit a product/services as it is to enter it' and highlights processes that are designed deliberately to make it difficult for customers to realise benefits or exit products ('sludge practices') and 'restrictive, rigid or arbitrary requirements'. Firms should use the evidence they have about their customers' use of products, interactions and behaviour to identify areas where their process may be causing 'undue hindrance'.

'No regrets' actions:

- Understand what data and information are available to help identify 'undue hindrance'.
- Identify, and address, any obvious 'sludge practices' or unnecessary friction in the customer journey.

Outcome 4: The price of products and services represents fair value for consumers.

The FCA is proposing to introduce a requirement that firms set prices so that they represent fair value for their target customers. Value means the relationship between the overall price to the customer and the benefits received considering the nature of the product, the type and quality of services provided and the total price the customer is expected to pay.

The FCA will expect firms to be able to show that they have made an assessment and can demonstrate why they consider that the relationship between the price and benefits is reasonable. In line with its expectations of value assessments conducted by fund managers, the FCA says its intention is that senior management would be accountable for the outcomes of the value assessments.

'No regrets' action

- Develop or revisit frameworks to assess the value of products, taking account of the factors outlined by the FCA in the CP.



This publication has been written in general terms and we recommend that you obtain professional advice before acting or refraining from action on any of the contents of this publication. Deloitte LLP accepts no liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 1 New Street Square, London, EC4A 3HQ, United Kingdom.

Deloitte LLP is the United Kingdom affiliate of Deloitte NSE LLP, a member firm of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"). DTTL and each of its member firms are legally separate and independent entities. DTTL and Deloitte NSE LLP do not provide services to clients. Please see www.deloitte.com/about to learn more about our global network of member firms.

© 2021 Deloitte LLP. All rights reserved.