

**The Consumer Duty**

## Chapter 2A

# The Consumer Duty

## 2A.7 General

### Expected standards under Principle 12 and PRIN 2A

2A.7.1

R

*Principle 12* and the obligations in ■ PRIN 2A must be interpreted in accordance with the standard that could reasonably be expected of a prudent *firm*:

- (1) carrying on the same activity in relation to the same *product*; and
- (2) taking appropriate account of the needs and characteristics of *retail customers* based on the needs and characteristics of *retail customers* in the relevant target market or of individual *retail customers* as the context requires.

2A.7.2

G

What is reasonable depends on all the relevant circumstances, including:

- (1) the nature of the *product* being offered or provided, in particular:
  - (a) the risk of harm to *retail customers*. For example, if a *product* is higher risk, *firms* should take additional care to ensure it meets *retail customers'* needs, characteristics and objectives and is targeted appropriately;
  - (b) the *product's* relative complexity. *Retail customers* may find it more difficult to assess the features, suitability or value offered by more complicated *products*. Long-term products where the outcome is not easy to predict, or non-standard charging structures, or other features which may not be easy for *retail customers* to understand may require greater care from a *firm* to promote, monitor and support consumer understanding;
  - (c) the costs, fees and charges involved with the *product*;
  - (d) the relative utility to *retail customers* of the *product* as a whole and of specific features, options, or services within the *product*, if subject to separate fees or charges;
- (2) the characteristics of the *retail customer* or *retail customers* including (to the extent that a *firm* either knows about or should reasonably have known about them), in particular:
  - (a) their reasonable expectations in relation to the *product*; and
  - (b) their resources, degree of financial capability or sophistication, characteristics of vulnerability and corporate structure (where relevant).
- (3) the *firm's* role in relation to the *product*, including:

- (a) the *firm's* relationship with the *retail customer*. Acting reasonably does not require a *firm* to assume a fiduciary duty or require an advisory service where it does not already exist;
- (b) whether the *firm* has provided or will provide advice to the *retail customer*. What is reasonable may be different where advice is being provided;
- (c) the *firm's* role in the *product's* distribution chain, in particular its role in determining or materially influencing outcomes for *retail customers* in relation to the *product*;
- (d) the stage in the *firm's* relationship with the *retail customer*. There will be times when retail 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 be acting reasonably in such circumstances may be greater than when a *retail customer* is making decisions which carry a lesser risk of adverse outcomes.

**2A.7.3** **G** Acting in a way that could reasonably be expected of a prudent *firm* requires more than adopting a single solution that is reasonable. It includes (among other things) considering whether the preferred solution provides good outcomes for all *retail customers* affected or only some; and if only some, why it does not work for all, and how best to identify additional actions which might mitigate the outcome for those adversely affected.

#### **Protected characteristics and characteristics of vulnerability**.....

**2A.7.4** **G** In relation to the needs and characteristics of *retail customers*, a *firm* should, among other things:

- (1) pay appropriate regard to the nature and scale of characteristics of vulnerability that exist in any relevant *target market*;
- (2) pay appropriate regard to the impact of characteristics of vulnerability on the needs of *retail customers* in any relevant *target market*;
- (3) when dealing with a particular *retail customer* pay appropriate regard to the needs and characteristics of that *retail customer*, such as characteristics of vulnerability;
- (4) assist frontline staff to understand how to actively identify information that could indicate vulnerability and, where relevant, seek information from *retail customers* with characteristics of vulnerability that will allow staff to respond to their needs; and
- (5) set up systems and processes in a way that supports and enables *retail customers* with characteristics of vulnerability to disclose their needs.

**2A.7.5** **G** (1) *Firms* should be aware that groups of *retail customers* with specific protected characteristics may have, or be more likely to have, characteristics of vulnerability, for example older customers. In addition, where health is a driver of vulnerability it will likely have substantial overlap with the protected characteristic of 'disability' under the Equality Act 2010. *Firms* should be mindful of this when

considering whether they are compliant with *Principle 12* and ■ PRIN 2A and their obligations under the Equality Act 2010 or equivalent legislation.

- (2) *Firms* should keep themselves apprised of any evidence that may emerge that *retail customers* with specific protected characteristics are more likely to have characteristics of vulnerability. *Firms* should take account of any such evidence when considering whether they are compliant with *Principle 12* and ■ PRIN 2A and their obligations under the Equality Act 2010 or equivalent legislation.