

Product governance: funeral plans

Chapter 7

Product governance: funeral plans

7.2 Manufacture of funeral plans

Product governance arrangements: product approval

7.2.1 **R** A *manufacturer* must maintain, operate and review a process for the approval of:

- (1) a *funeral plan product*; and
- (2) any significant adaptation of an existing *funeral plan product*,

in each case before it is marketed or distributed to *customers*.

7.2.2 **G** (1) **■** PROD 7.2.1R(1) includes any *funeral plan product* whether a new product *manufactured* on or after 29 July 2022 or any *existing funeral plan product*. In relation to an *existing funeral plan product*, references in **■** PROD 7.2 and **■** 7.3 to ‘marketing’ or ‘distributing’ includes reference to any future activity regardless of whether the product has previously been made available for marketing or distribution.

(2) For the purposes of **■** PROD 7.2.1R(2):

- (1) whether a proposed change to the product would be a ‘significant adaptation’ should include consideration of the potential impact that the adaptation may have on an existing or potential *customer* (when compared to the unadapted version of the product);
- (1) a ‘significant adaptation’ in relation to a *funeral plan product* may include, but is not restricted to, a proposed change to the undertaking to provide funeral arrangements, services added or removed, level of monetary benefits (other than adjustments for inflation or other cost variations) costs, and any other significant change to the terms and conditions.

Product governance arrangements: identifying the necessary approval process

7.2.3 **R** The product approval process in **■** PROD 7.2.1R must be proportionate and appropriate to the nature of the *funeral plan product*.

7.2.4 **G** A *manufacturer* should take into account the following when considering whether the product approval process is proportionate and appropriate:

- (1) the complexity of the *funeral plan product*;

- (2) the degree to which publicly available information can be obtained;
- (3) the nature of the *funeral plan product* and the risk of consumer detriment related to it;
- (4) the characteristics of the target market;
- (5) the scale and complexity of the relevant business of the *manufacturer or distributor*;
- (6) the potential risk, and possible levels, of harm to *customers* if the product design is flawed, in particular, due to the potential scale of harm if the product is intended for a wide target market;
- (7) the nature of the cover that the product is intended to provide;
- (8) whether the distribution arrangements could mean *customers* are at a greater risk of not receiving fair value from the product;
- (9) any particularly notable features of, or relating to, existing products (including how it has been distributed); and
- (10) the nature and complexity of the *firm's* existing or intended *customer base*, for example whether it includes or is likely to include:
 - (a) different types of *customers* with varying characteristics including in relation to their understanding of financial matters; and
 - (b) a significant number of vulnerable *customers*.

Product approval process: outcomes, measures and procedures

7.2.5

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A *manufacturer* must have a product approval process that:

- (1) ensures the design of a *funeral plan product*:
 - (a) identifies how funeral arrangements will be provided;
 - (b) delivers fair value;
 - (c) takes into account the intended *customers* including their objectives, interests, needs and characteristics;
 - (d) does not adversely affect *customers*; and
 - (e) is driven by features that benefit the *customer* and not by a business model which relies on poor *customer* outcomes to be profitable;
- (2) prevents or mitigates *customer* detriment; and
- (3) supports a proper management of conflicts of interest.

7.2.6

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The product approval process must contain appropriate measures and procedures for:

- (1) the design, distribution, monitoring and review of a *funeral plan product*;

- (2) identifying whether the product is, or remains, appropriate to be marketed or distributed to *customers*; and
- (3) taking corrective and/or mitigating action for *funeral plan products* where actual or potential *customer* detriment is identified.

Product approval process: written policy and record keeping

7.2.7 **R** A *manufacturer* must set out the product approval process in a written document (“product oversight and governance policy”), which is made available to the relevant staff.

7.2.8 **R** A *manufacturer* must make and retain a record of any relevant actions taken in relation to the product approval process. The record must be made available to the *FCA* upon request.

Product approval process: governing body responsibility

7.2.9 **R** A *manufacturer’s governing body* must:

- (1) endorse and be responsible for establishing, implementing and reviewing the product approval process; and
- (2) verify internal compliance with that process on an ongoing basis.

Product approval process: staff competence

7.2.10 **R** A *manufacturer* must ensure that any of its staff involved in the *manufacture* of a *funeral plan product* has the necessary skills, knowledge and expertise to properly carry out this role and, in particular, to understand the *funeral plan product* and the interests, objectives and characteristics of the *customers* belonging to the target market. (Also see **SYSC 5.1.1R** (competent employee rule)).

7.2.11 **R** Where a *manufacturer* uses a third party to undertake any part of the *manufacture* of the *funeral plan product* on its behalf, the *manufacturer* remains fully responsible for compliance with the product approval process.

Product approval process: review of process

- 7.2.12** **R**
- (1) A *manufacturer* must regularly review its product approval process to ensure that the process is still appropriate and up to date.
 - (2) Where the process is identified to no longer be appropriate, the *manufacturer* must:
 - (a) amend the product approval process;
 - (b) review any product approved since the approval process was last deemed to be appropriate to:
 - (i) ensure these products were correctly approved for marketing and/or distribution; and
 - (ii) take all necessary steps for the mitigation and remediation of any actual or potential harm to *customers*.

Product approval process: manufacture by more than one manufacturer

- 7.2.13 **R** (1) Where two or more *firms* collaborate to *manufacture a funeral plan product*, the *firms* must outline their mutual responsibilities in a signed written agreement.
- (2) The written agreement in (1) must specify:
- (a) their respective roles in the product approval process; and
 - (b) how they will collaborate to comply with the requirements in **■ PROD 7.2 (Manufacture of funeral plans)**, including the procedures through which they will agree on the identification of the target market.

Product approval process: fair value

- 7.2.14 **R** A *manufacturer* must only approve a *funeral plan product* where it provides fair value to *customers* in the target market.

- 7.2.15 **R** (1) A *manufacturer* must:
- (a) be able to clearly demonstrate how any *funeral plan product* provides fair value; and
 - (b) make and retain a record of the value assessment required by **■ PROD 7.2.14R**.
- (2) Where a *manufacturer* is unable to both:
- (a) identify; and
 - (b) clearly demonstrate,
- that the *funeral plan product* will provide fair value, the *manufacturer* must not:
- (c) market the *funeral plan product*; or
 - (d) permit the *funeral plan product* to be *distributed* (whether directly or through another *person*),
- unless the *manufacturer* has ensured appropriate changes have been made so that fair value will be provided.

Product approval process: meaning of value

- 7.2.16 **R** In **■ PROD 7 "value"** means the relationship between the total price to the *customer* and the quality of the product(s) and/or services provided. The assessment of value must include consideration of at least the following:
- (1) the nature of the product, including the benefits that will be provided, their quality, and any limitations (for example, in the scope of the funeral arrangements or other features);
 - (2) the type and quality of services provided to *customers*;
 - (3) the expected total price to be paid by the *customer* when buying the *funeral plan product*, and the elements that make up the total price. This will need to include consideration of at least the following:

- (a) the overall cost to the *manufacturer* of the *funeral plan product* of:
 - (i) operating the product, including the costs of the trust or *premiums* paid towards an *insurance policy* to meet the requirements in ■ FPCOB 3 (Structure provisions - arrangements underpinning a funeral plan contract); and
 - (ii) the delivery of funeral benefits under it; and
 - (b) the individual elements of the expected total price to be paid by the *customer* including, but not limited to:
 - (i) the *funeral plan product*;
 - (ii) the costs of the distribution arrangements, including the remuneration of any relevant *person* in the distribution arrangements, and including where a *manufacturer* delegates the final decision on setting the price to another *person*; and
- (4) how the intended distribution arrangements support, and will not adversely affect, the intended value of the product.

7.2.17 **R** A *manufacturer* must not rely on individual *customers* to consider whether they are making fair value purchases in place of any part of the *manufacturer's* own assessment.

Product approval process: compliance with fair value requirement

7.2.18 **G** The following *evidential provision* provides examples of arrangements that the *FCA* considers will breach ■ PROD 7.2.14R.

7.2.19 **E**

- (1) A *manufacturer* should not have a *funeral plan product* where:
 - (a) the difference between the cost of delivering the *funeral plan contract* obligations to the *manufacturer* and the total price paid by the *customer* bears no reasonable relationship to:
 - (i) the actual costs incurred by the *manufacturer* or any other *person* involved in the distribution arrangements;
 - (ii) the quality of any benefits (including of the *funeral plan product*); or
 - (b) any difference between the cost of the funeral arrangements under the *funeral plan product* and the cost of the equivalent funeral arrangements purchased without a *funeral plan contract* does not have an objective and reasonable basis.
- (2) Contravention of any of (1) may be relied on as tending to establish contravention of ■ PROD 7.2.14R.

Product approval process: information to be used when assessing a product for approval

7.2.20 **R** When assessing whether a product should be approved for the purposes of ■ PROD 7.2.1R, a *manufacturer* must use the full range of data and information available to it including, but not limited to:

- (1) information available to the *manufacturer* internally including:
 - (a) *customer* research;
 - (b) the performance of the *funeral plan product* or other *funeral plan products* of the *manufacturer*, including for example:
 - (i) how the estimated costs of funerals compare to actual costs;
 - (ii) number of *customers* cancelling the *funeral plan contracts*;
 - (iii) number of missed instalment plan payments by the *customer*; and
 - (iv) number of *funeral plan contracts* expected to be claimed but have not been redeemed;
 - (c) complaints data (including root cause analysis and handling times), both expected for the product itself and/or any actual information from a comparable product;
- (2) public information or information obtainable by the *manufacturer* from external sources, including analysis of similar *funeral plan products* available from other *firms*; and
- (3) information available to the *manufacturer* specifically from *persons* in the distribution arrangements or external funeral provider, including:
 - (a) any remuneration and its impact on the value of the product;
 - (b) levels or quality of service provided by any *person* in the distribution arrangements;
 - (c) any results of monitoring and oversight of the processes of any *persons* in the distribution arrangement (for example, call monitoring or file checks), including in relation to other products that *person distributes*; and
 - (d) the wholesale and retail prices of a funeral not paid for using a *funeral plan contract* (whether paid for in advance or after the death of a *person*).

Product approval process: product backing arrangements

7.2.21

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A *manufacturer* must only approve a *funeral plan product* where it has established adequate processes and procedures to ensure:

- (1) any *funeral plan contracts* entered into using that product will have the necessary and robust trust or *insurance* arrangements required to comply with **FPCOB 3** (Structure provisions – arrangements underpinning a funeral plan contract); and
- (2) at a product level, there is sufficient oversight and management of those trust or *insurance* arrangements to mitigate the risk of *customer* harm.

Product approval process: identifying the target market

7.2.22

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A *manufacturer* must ensure that for each *funeral plan product* the product approval process:

- (1) specifies an identified target market;

- (2) assesses all relevant risks to the identified target market;
- (3) identifies that a *funeral plan product* offers fair value to the specified target market, taking into account in particular their needs, objectives, interests and characteristics;
- (4) permits only the approval of *funeral plan products* that are compatible with the needs, characteristics and objectives of the *customers* belonging to the target market;
- (5) verifies that the intended distribution strategy is consistent with the identified target market; and
- (6) requires reasonable steps are taken to ensure that the *funeral plan product* is distributed to the identified target market.

7.2.23 **R** A *manufacturer* must identify the target market at a sufficiently granular level, taking into account the characteristics, risk profile, complexity and nature of the *funeral plan product*.

7.2.24 **R** A *manufacturer* must identify groups of *customers* for whose needs, characteristics and objectives the *funeral plan product* is generally not compatible.

7.2.25 **R** When assessing whether a *funeral plan product* is compatible with a target market, a *manufacturer* must take into account:

- (1) the level of information available to the *customers* belonging to that target market and their financial literacy; and
- (2) vulnerable *customers*.

7.2.26 **G**

- (1) The identification of the target market should describe a group of *customers* sharing common characteristics at an abstract and generalised level in order to enable the *manufacturer* to adapt the features of the product to the needs, characteristics and objectives of that group of *customers*.
- (2) The identification of the target market should be distinguished from the individual assessment at the point of sale to determine whether a product meets the demands and needs of the individual *customer*.

Product approval process: product testing

7.2.27 **R**

- (1) A *manufacturer* must test a *funeral plan product* appropriately, including scenario analyses, in a qualitative manner and quantitative manner.
- (2) The product testing in (1) must assess whether the *funeral plan product* over its lifetime meets the identified needs, objectives and characteristics of the target market.
- (3) The requirement in (1) must be carried out:

- (a) before approving the product for marketing or distribution;
- (b) when the product is being significantly adapted; and
- (c) where the target market has significantly changed.

7.2.28 **R** A *manufacturer* must not bring a *funeral plan product* to the market if the results of the product testing show that the product does not provide fair value including where it would not meet the identified needs, objectives and characteristics of the target market.

Distribution channels: selecting channels.....

7.2.29 **R** A *manufacturer* must carefully select distribution arrangements, including specific distribution channels that are appropriate for the target market, taking into account the particular characteristics of the relevant *funeral plan product*.

7.2.30 **R**

- (1) When selecting any distribution arrangements, including any particular distribution channel, a *manufacturer* must be able to demonstrate clearly that these arrangements:
 - (a) result in fair value to the *customer*;
 - (b) are consistent with the requirements in **FPCOB 6.4** (charging for funeral plan distribution); and
 - (c) prevent or mitigate the risk of *customer* detriment arising from the distribution of the product, for example by verifying that any proposed distributor has the necessary knowledge, expertise and competence; and
 - (d) do not pose a significant risk of a distribution channel failing to meet the requirements in *FPCOB*.
- (2) A *manufacturer* must not use a distribution channel unless it is able to demonstrate the requirements in (1) are met.

7.2.31 **G** *Manufacturers* should only select *distributors* that have the necessary knowledge, expertise and competence to understand the features of a *funeral plan product* and the identified target market.

7.2.32 **R** Whenever making a change to the distribution arrangements, including adding a further distribution channel, a *manufacturer* must:

- (1) obtain all necessary information from the *distributor* or any other *person* who will be involved with the distribution arrangement, including that set out in **PROD 7.2.35R**; and
- (2) identify whether the proposed change to the distribution arrangements is consistent with the fair value requirement in **PROD 7.2.14R**.

Distribution channels: information disclosure to distributors

7.2.33

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- (1) A *manufacturer* must make available to a *distributor* all appropriate information on the:
 - (a) *funeral plan product*, including to enable the *distributor* to understand the intended value established by the *manufacturer*;
 - (b) product approval process;
 - (c) identified target market of the *funeral plan product*, including any type of *customer* for whom the *funeral plan product* is unlikely to provide fair value; and
 - (d) suggested distribution strategy.
- (2) The information in (1) must:
 - (a) include information on the main features and characteristics of the *funeral plan products*, their risks and costs, including implicit costs, and any circumstances which might cause a conflict of interest to the detriment of the *customer*;
 - (b) be clear, complete and up to date.

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- (1) The information a *manufacturer* has to make available to any *distributor* under **PROD 7.2.33R(1)** must be of an adequate standard to enable *distributors* to:
 - (a) understand the *funeral plan products*;
 - (b) comprehend the identified target market for the *funeral plan products*;
 - (c) identify any *customers* for whom the *funeral plan products* are not compatible with their needs, characteristics and objectives; and
 - (d) carry out distribution activities for the relevant funeral plans in accordance with the *best interests of their customers* as prescribed in **FPCOB 2.1.2R**.
- (2) A *manufacturer* is not required to disclose specific information objectively considered to be commercially sensitive if the information it does make available would still allow *distributors* to meet **PROD 7.2.34R(1)** and **PROD 7.2.35R(1)(a)** and (b).

Distribution channels: obtaining information from distributors

7.2.35

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- A *manufacturer* must obtain from any *person* in the distribution arrangements all necessary and relevant information to enable it to identify the remuneration associated with the distribution arrangements to allow it to assess the ongoing value of the product, including at least:
- (1) the type and amount of remuneration of each *person* in the distribution arrangement where this is part of the *funeral plan contract* price or otherwise paid directly by the *customer*, including in relation to *additional products*;
 - (2) an explanation of the services provided by each *person* in the distribution arrangements; and

- 7.2.36 **G**
- (3) confirmation from any *firm* in the distribution arrangements that any remuneration is consistent with their regulatory obligations, including ■ SYSC 19F.3 (Funeral plan remuneration incentives).
- (1) Where the *manufacturer* is considering the effects of the distribution arrangements on value, it should consider whether the additional costs of any individual party in the arrangements that add to the total price paid by the *customer* deliver any, or a proportional, additional benefit. If not, a *manufacturer* should consider how it can be satisfied that the arrangements are consistent with its obligations to be able to clearly demonstrate fair value to the *customer*.
 - (2) A benefit that could be consistent with fair value might include where the party's inclusion in the distribution arrangements increases access to the product for *customers* in the target market in a way that is proportionate to the additional cost involved.

Monitoring and review of funeral plan products

7.2.37 **R** A *manufacturer* must regularly review the *funeral plan products* it offers or markets taking into account any event that could materially affect the potential risk to the identified target market, the main features or the guarantees of the *funeral plan product*. In doing so, the *manufacturer* must assess at least the following:

- (1) whether the *funeral plan product* remains consistent with:
 - (a) the identified target market, including their interests, needs, characteristics and objectives;
 - (b) the fair value assessment required under ■ PROD 7.2.14R; and
- (2) whether the intended distribution strategy remains appropriate, including whether those products are being distributed to the target market or are reaching *customers* outside the target market.

7.2.38 **R** A *manufacturer* must ensure that the review process:

- (1) has the necessary measures to be able to identify if the *funeral plan product* is not providing fair value; and
- (2) provides that appropriate actions be taken:
 - (a) for the mitigation and any potential remediation of the harm to existing *customers*; and
 - (b) to prevent harm to new *customers*.

Monitoring and review of funeral plan products: minimum review period

7.2.39 **R** A *manufacturer* must undertake the regular review:

- (1) every 12 *months*; or
- (2) more frequently where the potential risk associated with the *funeral plan product* makes it appropriate to do so.

7.2.40

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When determining the appropriate interval for review of a *funeral plan product*, a *manufacturer* must take into account:

- (1) the nature of the *customer* base, including whether there are significant numbers of vulnerable *customers*;
- (2) any specific indicators seen in the *manufacturer's* assessment of the product's value to the *customer*;
- (3) the nature and type of distribution arrangements being used;
- (4) any indicators of *customer* harm potentially emerging from the performance of the product (for example, through redemptions of *funeral plan contracts*, missed instalment plan payments by the *customer*, and/or the number of *funeral plan contracts* expected to be redeemed but have not been redeemed and complaints data); and
- (5) any relevant external factors, such as changes to the applicable legal rules, technological developments, or changes to the market situation.

Product monitoring and review: monitoring through lifetime of the plan

7.2.41

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- (1) A *manufacturer* must identify during the lifetime of a *funeral plan product* any circumstances related to the funeral plan product that may adversely affect a *customer* of that product.
- (2) Where a *manufacturer* identifies an event that may adversely affect a *customer* of the product, the *manufacturer* must:
 - (a) take appropriate action to mitigate the situation and prevent further occurrences of the detrimental event; and
 - (b) promptly inform concerned *distributors* and *customers* about the remedial action taken.

Product monitoring and review: monitoring distribution arrangements

7.2.42

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- (1) A *manufacturer* must take appropriate steps to monitor:
 - (a) that a *funeral plan product distributor* acts in accordance with the objectives of the *manufacturer's* product approval process; and
 - (b) any impact which the distribution arrangements are having on the value including whether the distribution channels remain appropriate.
- (2) A *manufacturer* must verify on a regular basis whether the *funeral plans products* are distributed on the identified target market.
- (3) The monitoring activities must be reasonable, taking into consideration the characteristics and the legal framework of the respective distribution channels.

7.2.43 **G** ■ PROD 7.2 does not require the *manufacturer* to monitor a *distributor's* compliance with general regulatory requirements when carrying out *funeral plan distributions* for individual *customers*.

7.2.44 **R** A *manufacturer* must:

- (1) ensure that it has sufficient, good quality management information; and
- (2) use the full range of data and information available to it (whether it holds this information already, the information is publicly available, or it is able to obtain it from another *person*),

to enable it to properly understand and monitor the *funeral plan product*.

7.2.45 **G** A *manufacturer* should identify whether there is a risk to its continuing to provide fair value where there is a material change in the relationship between the price to the *customer* and the actual costs to the *manufacturer* or another party involved in the ongoing service/distribution of the product.

Product monitoring and review: considering changes to funeral plan products

7.2.46 **R** For the purposes of showing that the requirement in ■ PROD 7.2.1R is met, where a *manufacturer* makes a change to a *funeral plan product*, it must make and retain a record of:

- (1) the assessment of whether that change would amount to a significant adaptation of the *funeral plan product*; and
- (2) where the assessment in (1) is that the change would not be a significant adaptation, the reasons for that decision.

Product monitoring and review: remedial and mitigating action

7.2.47 **R** *Manufacturers* considering that the distribution of their *funeral plan products* is not in accordance with the objectives of their product approval process must take appropriate remedial action including but not limited to:

- (1) amending the distribution arrangements, including ceasing to use certain *distributors* or distribution channels;
- (2) amending remuneration structures;
- (3) withdrawing the *funeral plan product* from continued marketing or distribution; or
- (4) paying redress as appropriate.