

The Consumer Duty

Chapter 2A

The Consumer Duty

2A.7 General

Expected standards under Principle 12 and PRIN 2A

2A.7.1

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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.

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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.