

The Consumer Duty

Chapter 2A

The Consumer Duty

2A.9 Monitoring of consumer outcomes

General

- 2A.9.1** **R** This section sets out the general obligation on *firms* to monitor under *Principle 12* and **PRIN 2A** the outcomes that *retail customers* are experiencing from their *products*.
- 2A.9.2** **G** The purpose of the monitoring obligation is to enable *firms* to identify whether there are any risks that they are not meeting the requirements of the cross-cutting obligations and the *retail customer* outcomes, and consequently they are not acting to deliver good outcomes for *retail customers*.
- 2A.9.3** **G** The frequency of monitoring, and the nature of the information a *firm* must collect to effectively monitor the outcomes received by *retail customers* depends on the type of *firm* and its role in the distribution chain, the nature of the *product*, and the *target market*.
- 2A.9.4** **G**
- (1) The monitoring obligation applies proportionately to a *firm's* role in the distribution chain. Where a *firm* does not have direct contact with *retail customers* it should monitor the outcomes of the service it provides, having regard to any information it has about the outcomes experienced by *retail customers* at the end of the distribution chain.
 - (2) A *firm* that does not have direct contact with *retail customers* should act reasonably to obtain information about the outcomes experienced by *retail customers* of the *products* the *firm* has distributed.
- 2A.9.5** **G** To the extent that a *firm* is also required to carry out specific monitoring or reviews under any of the outcomes in **PRIN 2A.3** to **PRIN 2A.6**, the specific monitoring or reviews form part of the general monitoring required by this section and *firms* may utilise the information gathered through these processes in preparing the report required under **PRIN 2A.8.3R**.
- 2A.9.6** **G** In relation to communications, **PRIN 2A.5.10R** to **PRIN 2A.5.14R** set out specific requirements on the testing and monitoring of communications.
- 2A.9.7** **G** Where a *firm's* compliance with any other *rules* replaces their requirement to comply with provisions of **PRIN 2A**, or tends to show compliance with

provisions of ■ PRIN 2A, the *firm* may use any monitoring or reviews it carries out under those other *rules* in complying with its monitoring obligations under this section.

Requirement to monitor retail customer outcomes

2A.9.8 **R** A *firm* must regularly monitor the outcomes *retail customers* receive from:

- (1) the *products* the *firm* manufactures or distributes;
- (2) the communications the *firm* has with *retail customers*; and
- (3) the customer support the *firm* provides to *retail customers*.

2A.9.9 **R** The monitoring carried out by a *firm* must enable it to determine at least:

- (1) whether *retail customers* are being, or have been, sold *products* that have been designed to meet their needs, characteristics and objectives;
- (2) whether the *products* that *retail customers* purchase provide fair value and appropriate action has been taken to address *products* identified as not providing fair value;
- (3) whether *retail customers* are equipped with the right information to make effective, timely and properly informed decisions; and
- (4) whether *retail customers* receive the support they need.

2A.9.10 **R** The *firm's* monitoring must also enable it to identify:

- (1) whether the *firm* is complying with *Principle 12* and the cross-cutting obligations in ■ PRIN 2A.2;
- (2) whether for any *product* the *firm* manufactures or distributes, any group of *retail customers* is experiencing different outcomes compared to another group of *retail customers* of the same *product*; and
- (3) whether any *retail customers* have suffered harm as a result of the *firm's* acts or omissions.

Action required of firms

2A.9.11 **R** A *firm* must have in place processes to identify the root causes of any failure to deliver the outcomes listed in ■ PRIN 2A.9.9R for *retail customers*.

2A.9.12 **R** Where a *firm* identifies that:

- (1) *retail customers* are not receiving the outcomes listed in ■ PRIN 2A.9.9R, or there is a risk that *retail customers* will not receive these outcomes;

- (2) any group of *retail customers* for a *product* are receiving worse outcomes than another group of *retail customers* for the same *product*;
- (3) the *firm* is not complying with *Principle 12* and the cross-cutting obligations in ■ PRIN 2A.2,

it must take appropriate action to address the situation.

2A.9.13 G ■ PRIN 2A.9.12R does not require a *firm* to take action to remove the effects of risks inherent in a *product* that the *firm* reasonably believed the *retail customer* understood and accepted.

2A.9.14 G *Firms* should have regard to ■ PRIN 2A.10 in considering what may be appropriate action under ■ PRIN 2A.9.12R.

Record keeping
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2A.9.15 G ■ SYSC 3 and ■ SYSC 9 contain high level requirements in relation to record keeping. *Firms* will need to decide, in line with these requirements, what records they need to keep in relation to their obligations under *Principle 12*, the cross-cutting obligations and the consumer outcomes.

Obligation to notify the FCA
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2A.9.16 G *Firms* are reminded of their obligations under *Principle 11* to inform the *FCA* of anything relating to the *firm* of which the *FCA* would reasonably expect notice.

2A.9.17 R A *firm* in a distribution chain must notify the *FCA* if it becomes aware that any other firm in that distribution chain is not or may not be complying with *Principle 12* or ■ PRIN 2A.