

21 February 2023

Dear CEO/Director,

**Implementing the Consumer Duty in payments firms**

The Consumer Duty is a significant shift in our expectations of firms. It introduces a more outcomes-focused approach to consumer protection and sets higher expectations for the standard of care that firms give customers.

We are sending this letter to firms supervised by the FCA within our payments portfolio which includes firms authorised or registered under the [Payment Services Regulations 2017](#) (“PSRs”) and the [Electronic Money Regulations 2011](#) (“EMRs”) such as Payment Institutions (“PIs”), Electronic Money Institutions (“EMIs”) and Registered Account Information Service Providers (“RAISPs”) to help them implement and embed the Consumer Duty effectively.

For many firms, meeting the Duty will require a significant shift in culture and behaviour. We recognise that the implementation of the Duty comes at a challenging time. However, we believe that embedding the Duty effectively will help payments firms continue to build trust amongst consumers in using the expanding range of products and services and enable the sector to continue to grow in a way that delivers consistently good outcomes for customers.

This letter sets out:

- A reminder of the implementation timeline, key elements of the Duty and how it applies to payments firms
- Our expectations on how payments firms should embed the Duty, including examples of good and poor practice
- Feedback from our recent review of firms’ implementation plans
- Our approach to supervising the Duty in the payments portfolio and planned next steps.

We expect the Consumer Duty to be a top priority for you personally. We want good outcomes for customers to be at the heart of firms’ strategies and business objectives, and leaders have a key role to play here. We expect firms’ Boards and senior management to embed interests of customers into the culture and purpose of the firm.

We expect you to consider and discuss this letter with your fellow directors and board, including the [Consumer Duty Champion](#) (or equivalent) and agree what further action you plan to take to ensure that your firm meets the requirements and expectations we have set out.

### **Your timeline for introducing the Duty**

In July 2022 we published final rules and guidance for firms and set out the following timeline for firms to implement the Duty:

- By the end of October 2022 firms' boards or management bodies should have agreed their plans for implementing the Duty
- By the end of April 2023 manufacturers should have completed all reviews necessary to meet the outcome rules and shared necessary information with their distributors
- The Duty comes into force on 31 July 2023 for new and existing products or services that are open to sale or renewal
- On 31 July 2024, the Duty comes into force for closed products or services.

While our work on the Duty pre-dates the cost-of-living crisis, firms' roles in preventing harm and delivering good outcomes for consumers is all the more crucial at the current time, when many consumers are struggling financially.

### **How the Duty applies to payments firms**

The Duty applies to products and services offered to retail customers, including to micro-enterprises and small charities with an annual turnover of less than £1 million, and to all firms who determine or have a material influence over consumer outcomes - not just those with a direct customer relationship. It is important that you consider how the Duty applies to your firm in light of its business model, customer characteristics and influence over consumer outcomes. We've set out a some more information and examples about how the Duty applies to payments firms in Annex 1 to this letter.

### **Overview of the requirements of the Duty**

The [Finalised Guidance](#) we published in July 2022 sets out the requirements of the Duty, including several examples of good and poor practice.

The Duty requires firms to act to deliver good outcomes for retail customers. Firms must act in good faith towards customers, avoid causing them foreseeable harm, and enable and support them to pursue their financial objectives. Firms should consider the diverse needs of their customers – including those with characteristics of vulnerability (see chapters 4-5 of the Guidance).

The Duty also introduces new rules and guidance to ensure that:

- **Products and services:** are designed to meet the needs, characteristics and objectives of a specified target market (chapter 6)
- **Price and value:** Products and services provide fair value with a reasonable relationship between the price consumers pay and the benefit they receive (chapter 7)
- **Consumer understanding:** Firms communicate in a way that supports consumer understanding and equips consumers to make effective, timely and properly informed decisions (chapter 8)

- **Consumer support:** Firms provide support that meets consumers' needs throughout the life of the product or service (chapter 9)

A key part of the Duty is that firms are able to define, monitor, evidence and stand behind the outcomes their customers are experiencing (chapter 10). This monitoring must enable firms to identify where customers, or groups of customers, are experiencing poor outcomes, and where this is the case firms must take appropriate action to rectify the situation.

The Duty does not have a retrospective effect and does not apply to past actions by firms. However, the Duty applies, on a forward-looking basis, to firms' ongoing actions in respect of existing customers (chapter 3).

### **Our expectations for how payments firms should embed the Duty**

We have summarised in Annex 2 a number of key things we expect payments firms to consider in order to deliver consistently good consumer outcomes in accordance with the Duty. We have also included some illustrative examples for you to consider. These are not comprehensive but provide an indication of how the Duty may apply to certain business models in the payments portfolio.

### **Feedback from our review of implementation plans**

On 25 January we [published feedback](#) for firms on the implementation plans we have reviewed. This feedback contains examples of good practice, and areas for improvement, which will be useful for all firms to review as they implement the Duty.

Many of the plans we reviewed showed that firms have understood and embraced the shift to focus on consumer outcomes, established extensive programmes of work to embed the Duty, and are engaging with the substantive requirements.

However, we also identified plans that suggested some firms may be further behind in their thinking and planning for the Duty. This brings a risk that they may not be ready in time, or that they may struggle to embed the Duty effectively throughout their business.

We have identified three key areas where firms should particularly focus their attention during the second half of the implementation period (to 31 July 2023):

- **Effective prioritisation:** We saw some plans where it was not clear what the basis was for prioritising some implementation work ahead of other aspects. Firms should make sure they are prioritising appropriately, focusing on reducing the risk of poor consumer outcomes and assessing where they are likely to be furthest away from the requirements of the Duty.
- **Embedding the substantive requirements:** We saw some plans that suggested firms may have considered the requirements superficially or are over-confident that their existing policies and processes will be adequate. We urge firms to carefully consider the substantive requirements of the Duty, so that when they are reviewing their products and services, communications and customer journeys, they identify and make the changes needed to meet the new standards.
- **Working with other firms:** To implement the Duty on time, many firms need to work and share information with other firms in the distribution chain. However, some firms may need to accelerate their work on this important aspect of implementation.

As they oversee the implementation of the Duty, firms' boards and management bodies will want to particularly focus and provide challenge in the three areas above, and on the other issues highlighted in our feedback.

### **Our supervisory approach and next steps**

The Consumer Duty is a cornerstone of our [three-year strategy](#), and a key element of our work to set and test higher standards between now and 2025. It is being prioritised at every level of the FCA, from the Board down, and it will drive our supervision strategies and prioritisation.

As part of this work, we are developing a strategy for payments portfolio firms to embed the Duty in our Supervision work and tackle key harms, as well as metrics to measure the impact of the Duty in the portfolio.

Larger payments firms should expect to be asked regularly to provide their supervisors updates on implementation progress and their internal governance papers and minutes, which we will engage with and challenge. We will focus on the methodologies, progress, and outputs of the firm's baselining and gap analysis against the Duty outcomes, and on the approach and progress of the firm's evolving outcome measures and monitoring and associated data strategies.

Firms of all sizes in the payments portfolio should be ready for us to include them in engagement. We will also consider a firm's implementation of the Duty as appropriate in our casework and expect all firms to be able to explain the actions that have been taken to comply with the Duty on request.

We will continue our work to support firms' embedding activities in the run-up to the July 2023 implementation deadline. Our programme of communications on the Duty will continue, with further events and updates to our dedicated [webpages](#) and we will continue to engage with payments firms and trade associations. We are working with an external research agency that will soon be sending a short survey to a sample of firms. This anonymised survey will help us understand the progress firms are making in implementing the Duty and will inform our ongoing communications to firms.

### **For more information:**

- Read our **Finalised Guidance** [Finalised Guidance \(FG22/5\)](#)
- Consider our [feedback](#) on our **review of implementation plans**
- Visit our **Consumer Duty homepage** <https://www.fca.org.uk/firms/consumer-duty> where you will find additional information about the Consumer Duty, on-demand webinars and [podcasts](#), and the option to sign up for email updates.

If you have any questions, you can **email us** at [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk).

Yours sincerely,

Matthew Long  
Director, Payments and Digital Assets  
Supervision, Policy & Competition

## **Annex 1 - How the Duty applies to payments firms**

The Duty will require firms to act to deliver good outcomes for customers (including those in vulnerable circumstances). This reflects the positive and proactive expectation we have of firm conduct, and our desire for firms to think more about consumer outcomes and place consumers' interests at the heart of their activities.

The payments portfolio includes firms with a broad range of business models performing a number of activities that impact almost all consumers. Firms' target markets range from large corporates to individuals, including diaspora communities and vulnerable consumers, some of which are otherwise unable to access financial services. We expect the focus on acting to deliver good outcomes to be at the centre of payments firms strategy and business objectives.

Where an authorised or registered firm, for example a money remitter or electronic money issuer, provides payment services through an agent or, in the case of an electronic money issuer, distributes or redeems electronic money through an agent or distributor, the authorised or registered firm is responsible for ensuring that the third party complies with the Duty.

## **Annex 2 – Key things for firms to consider**

We have summarised below a number of key things we expect payments portfolio firms to consider in order to deliver consistently good consumer outcomes under the Duty. We have also included some illustrative examples for you to consider. These are not comprehensive but provide an indication of how the Duty may apply to certain business models in the portfolio.

**1. Products and services** - are designed to meet the needs, characteristics and objectives of a specified target market.

We expect firms to be able to demonstrate that they are:

- satisfying themselves that their products and services are designed to meet the needs of consumers in their target markets and perform as expected;
- assessing whether their products and services have features which could cause harm to groups of customers with characteristics of vulnerability, and what action they are taking to mitigate this risk of harm;
- considering the potential impact of any plans to cross-sell more to customers; we have seen cross-selling where the promoted products were appropriate for the original target market, but not necessarily appropriate for all of a wider group of customers, creating a risk that the latter purchase products which do not meet their needs;
- sharing all necessary information with other firms in the distribution chain, and receiving all necessary information themselves, to enable all firms in the chain to ensure they comply with the Duty;
- checking that their distribution strategies are being followed and that products and services are being correctly distributed to the target market; and

- using data and management information to monitor whether products and services continue to meet the needs of customers and contribute to good consumer outcomes. This includes regularly reviewing this data and taking any necessary mitigating actions.

Example: A firm develops an e-money products aimed at a specific group of customers, but the product ends up also being sold to consumers outside the original target market. The firm identifies this and:

- assesses the products, and confirms that they were appropriate for the broader cohort of customers; and then
- amends its risk controls to ensures they were suitable for consumers who were actually buying the product, rather than just to the original target market.

Selling your products and services to consumers outside your original target markets may not, as in this example, necessarily lead to consumer harm, but you should consider the implications, and if you find that your products are being widely used by consumers outside the original target market you may need to amend your target market, distribution strategy, and / or risk controls.

*Strong Customer Authentication* - The Duty includes a requirement for firms to ensure that the design of the product or service meets the needs, characteristics and objectives of customers in the identified target market. In line with the Duty, we expect payment service providers to develop strong customer authentication solutions that work for all groups of consumers, and we encourage firms to consider the impact of strong customer authentication solutions on different groups of customers, in particular those with protected characteristics, as part of the design process. This means that firms may need to provide several different methods of authentication to their customers. This includes methods that don't rely on mobile phones, to cater to customers who don't have/want to use a mobile phone or need to make payments in areas without mobile phone reception.

**2. Price and value** - Products and services provide fair value with a reasonable relationship between the price consumers pay and the benefit they receive.

We want all consumers to receive fair value. Value is about more than just price, and we expect firms to assess their products and services in the round to ensure there is a reasonable relationship between the price paid for a product or service and the overall benefit a consumer receives from it. For payment portfolio firms this includes:

- taking into account any regular charges or fees and any contingent fees or charges when assessing whether a product provides fair value. If a firm charges an e-money redemption fee, it must ensure that these charges are proportionate and commensurate with the costs actually incurred by the firm. You should keep these fee structures under review, especially as costs to your business change;
- considering whether vulnerable customers are adversely impacted by their charging structures. For example, if there is a minimum charge for topping up an e-money account then certain groups who make frequent low value top-ups may pay more than those who make higher value less frequent ones. Firms should consider whether the fee structure is appropriate to the consumer groups using their products; and
- firms selling products via agents or distributors will need to consider the charges they are levying on consumers as part of the assessment of fair value. Further, a firm which

distributes products to retail customers is responsible for ensuring the fair value obligations in relation to distribution are met in respect of any product it distributes to a retail customer.

**3. Consumer understanding** - Firms' communications should enable consumers to make informed decisions about financial products and services.

We expect your firm to provide its customers with the information they need, at the right time, presented in a way they can easily understand. Your firms' communications should adequately consider any potential for customer confusion inherent in its business model and provide adequate signposting and explanations to mitigate this risk. These considerations should include but not be limited to:

- clarity over fees and charges – ensuring that consumers are given the information they need, at the right times, and presented in a way they can understand;
- where appropriate, highlighting the differences between the protections that apply to customers using different products and services. For example, highlighting that PIs and EMIs are not banks, and that funds are protected by safeguarding arrangements rather than by the Financial Services Compensation Scheme. We [wrote to EMIs](#) in May 2021 about this and we expect firms to and ensure that their communications remain appropriate;
- firms offering regulated products alongside unregulated ones should make it clear to consumers which products are regulated, and which are not, and clearly set out the consumer protections relating to each product;
- where firms provide their products and services through agents and distributors, they should make clear to consumers the split of responsibilities between themselves and the intermediaries and who does what in those arrangements. Principal firms should be considering their agents' and distributors' communications relating to the firm's regulated services to the same extent and standards as their own; and
- firms should avoid using technical and complex language that is difficult for customers to understand. For example, when open banking firms ask for consumers to give explicit consent for the access and use of their payment accounts data, or when firms are explaining the nature of the services provided. This will support customers in understanding the implications of providing such consent and making informed decisions.

**4. Consumer Support** - Firms provide support that meets consumers' needs throughout the life of the product or service.

We do not prescribe which channels firms must offer, but from the perspective of the Duty firms must ensure that the channels of support they do offer meet the needs of their customers. We expect firms to provide support that meets consumers' needs through the full lifecycle of the product or service, for payment portfolio firms this includes:

- providing appropriate support channels. For example, some firms operating purely online may not offer other channels for consumers to contact them if they are experiencing difficulties, such as being unable to access mobile and internet services, or if need to speak to a member of staff directly to report fraud on their account. In some instances, this approach may not always be sufficient, and we expect firms to ensure their contact channels meet their customers' needs;

- firms should make it clear to consumers how and where they can access support and make a complaint if they wish to do so; and
- in cases where products are no longer suitable, firms should support customers in moving to a more suitable product or make it easy for them to exit.

### **Account freezing and fraud reports**

We continue to see poor financial crime controls in some payments and e-money firms. This can lead to a higher risk of both the firm and its customers being targeted by criminals. One specific access issue which we would highlight as needing careful consideration by firms under the cross-cutting rules and consumer support outcome, is the freezing of individual customer accounts. This is typically done because of financial crime suspicions that have been triggered and need to be investigated. That is reasonable in principle, but in practice some firms freeze a disproportionate number of accounts, for too long, and without adequate explanation. We remind firms of the requirements set out in regulation 71 Payment Services Regulations 2017 relating to stopping or blocking payment instruments, and the guidance at paragraphs 8.170 to 8.172 of our Approach Document. Firms should consider their processes relating to freezing of accounts, for example how to make such freezing:

- less frequent (e.g. through better upfront onboarding and Know Your Customer controls and more accurate and intelligent transaction monitoring);
- less protracted (e.g. through better, swifter investigation of suspicions);
- better communicated (to the extent possible within the constraints of avoiding tip off); and
- better supported (especially for customers put into acute financial difficulties by the freeze).

We also see a need under the Duty (in particular the Customer Support outcome) for firms to consider their handling of alleged cases of fraud, especially Authorised Push Payment fraud, and of complaints about such. Whilst we appreciate that the facts of these can be hard to establish, firms should ensure that their treatment of customers who feel themselves to be victims and are distressed is not unduly harsh or unsupportive.