

## Call for Input

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Review of FCA requirements  
following the introduction of  
the Consumer Duty

July 2024

## How to respond

We are asking for comments on this Call for Input by **31 October 2024**.

You can send them to us using the form on our [website](#).

Or in writing to:

Consumer Policy and Outcomes  
Financial Conduct Authority  
12 Endeavour Square  
London E20 1JN

**Email:**

[ReviewOfRequirementsCFI@fca.org.uk](mailto:ReviewOfRequirementsCFI@fca.org.uk)



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## Disclaimer

In your response, please indicate:

- If you consent to the publication of your name. If you are replying from an organisation, we will assume that the respondent is the organisation and will publish that name, unless you indicate that you are responding in an individual capacity (in which case, we will publish your name).
- If you want your response to be treated as confidential. We will have regard to this indication but may not be able to maintain confidentiality where we are subject to a legal duty to publish or disclose the information in question.

We may be required to publish or disclose information, including confidential information, such as your name and the contents of your response if required to do so by law, for example under the Freedom of Information Act 2000, or in the discharge of our functions. Please note that we will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Irrespective of whether you indicate that your response should be treated as confidential, we are obliged to publish an account of all the representations we receive when we make the rules.

Further information on about the FCA's use of personal data can be found on the FCA website at: [www.fca.org.uk/privacy](http://www.fca.org.uk/privacy).

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## Chapter 1

# Summary

- 1.1** Firms, particularly smaller firms, have longstanding concerns about the length and complexity of our rules and guidance. In this Call for Input (Cfi), we want to understand whether, where and how we can simplify our requirements, through greater reliance on high-level rules, while ensuring we continue to support and protect consumers.
- 1.2** We want to hear views from firms and industry bodies, as the main users of our rules and guidance, and from consumers, consumer groups, and other groups affected by our rules. We invite feedback on rules that should be reviewed and the potential benefits, and costs, of doing so.

## Why we are publishing this Call for Input

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- 1.3** The Consumer Duty (the Duty) sets a high standard of care that firms must give to their retail customers. The Duty's outcomes-based approach allows firms to adapt and innovate in a way that helps consumers and is responsive to technological change and market developments. Its introduction in July 2023 and the final implementation milestone of 31 July 2024 provide us with the opportunity to consider whether we could help firms, including new entrants, and support innovation by removing detailed and prescriptive requirements that cover similar issues to the Duty, and where similar customer outcomes could be achieved with greater flexibility.
- 1.4** Since 29 August 2023, we have a new secondary objective to facilitate the international competitiveness of the UK economy and its growth in the medium to long term (see Chapter 2). High standards of consumer protection play an important role in creating a safe, trusted, and stable environment for firms to compete and innovate, supporting this objective. We want our approach to the Duty to further support this objective by allowing for more effective competition and innovation. Consumers should have access to products and services suitable for their needs, and which provide fair value, while also improving trust in, and the reputation of, UK markets. This Cfi will help to ensure our regulation remains effective, streamlined and comprehensible, maximising the Duty's benefits.
- 1.5** The Cfi sits alongside other important current work. For instance, we have reviewed some of our rules over recent years, and continue to do so, including our expectations of firms' market conduct and wholesale business. Our [listing reforms](#) published earlier this month involve the removal of over 50 pages from our Handbook – the FCA's body of rules and guidance. Under the Smarter Regulatory Framework (SRF), we are working with the Treasury on the review and transfer of assimilated European Union (EU) financial services law into our Handbook and making changes to suit the domestic context.

- 1.6** We don't intend this Cfl to start a complete review of all our wider rules and guidance. Recent changes to strengthen the UK's position in global wholesale markets need time to embed, for example. We will consider when it is right to conduct a review of other parts of our rules and guidance, including using the feedback received to this Cfl.
- 1.7** In the meantime, we continue to make changes to our Handbook, reporting and website, including modernising the website to take advantage of the latest technologies and improve site navigability, digitising forms at the Gateway, building a firm portal within RegData (our data collection platform for gathering regulatory data from firms), and improving our data processing to simplify the way firms submit data to us.

## What we want to understand from this Call for Input

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- 1.8** We want to see where we can refine our retail conduct rules and guidance, though we also invite comments on our wider rules and guidance. We particularly want to address potential areas of complexity, duplication, confusion, or over-prescription, which create regulatory costs with limited or no consumer benefit. We also want to include appropriate flexibility in our rules to be responsive to future changes and innovation.
- 1.9** We invite comments on issues including:
- which detailed rules or guidance could be simplified to rely on high-level rules, or have interactions with other rules which could be clarified
  - how any steps to simplify our rules and guidance affect our statutory objectives
  - the appropriate balance between high-level and more detailed rules
  - the potential benefits and costs from simplifying our rules
- 1.10** Small firms and new entrants, in particular, benefit from a clear understanding of regulatory expectations to run and grow their businesses. We want to understand how different types of firms may be affected by changes to our approach, to avoid any damage to competition.
- 1.11** We have committed to a post-implementation review of the Duty, so we are not seeking responses to this Cfl with suggestions for changes to the Duty. Similarly, where we have recently consulted on and introduced new rules, we would want to give time for those rules to become embedded before considering changes.
- 1.12** We have included examples to illustrate the issues we discuss. Some show how we are already working to deliver on our aims. Others give practical examples of the impact of looking to rely on high-level or detailed rules.

## Who should read this Call for Input

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**1.13** This Cfl will primarily be of interest to:

- firms and industry bodies
- consumers and groups representing consumer interests
- policy makers and other regulatory bodies

**1.14** We also invite views from:

- industry advisers and consultancies
- experts and commentators
- academics and think tanks

## Next steps

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**1.15** This Cfl closes on 31 October 2024.

**1.16** We will carry out an extensive programme of engagement with interested parties over summer and autumn 2024.

## Chapter 2

# Background

- 2.1** In this chapter, we set out some background to the FCA Handbook, wider conduct requirements, and the Duty. We also outline our new secondary international competitiveness and growth objective and summarise some of the reviews of conduct requirements we are already undertaking.

## Our Handbook and other conduct requirements

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- 2.2** Our Handbook contains the rules, guidance and other provisions we have made, mainly under powers given to us by the Financial Services and Markets Act 2000 (FSMA).
- 2.3** The Handbook includes conduct of business requirements that set day-to-day conduct rules for firms in different sectors. For example, they cover the activities of firms in the banking, consumer credit, funeral plans, insurance, investment, and mortgage sectors. Many rules appear in sector-specific Sourcebooks, such as the Mortgage Conduct of Business (MCOB) Sourcebook, and are likely to cover similar ground to the Duty.
- 2.4** We focus on effective and proportionate regulation and each of our proposals for new rules are subject to cost-benefit analysis and consultation.
- 2.5** Where necessary, we consult on and publish additional non-Handbook guidance on our rules. This guidance sits outside our Handbook and provides more information on our expectations, such as our [guidance on the Duty](#).
- 2.6** There are other conduct requirements for firms outside of our Handbook, including in legislation, such as the E-money Regulations 2011, the Payment Services Regulations 2017, and the Consumer Credit Act 1974.

## The Consumer Duty

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- 2.7** The Duty came into force on 31 July 2023 for products and services open for sale. It comes into force on 31 July 2024 for products and services that were closed to sale or renewal on 31 July 2023.
- 2.8** The Duty is made up of a set of high-level, outcomes-focused requirements which apply to firms operating in retail markets for regulated financial services and products. This includes all firms involved in the creation, provision, operation, marketing and distribution of products and services sold to retail customers, whether or not there is a direct customer relationship between the firm and the customer.
- **Principle 12** sets the overall standard of behaviour expected from firms and requires them to act to deliver good outcomes for retail customers. It is defined further by other elements of the Consumer Duty.

- **The 'cross-cutting rules'** develop our expectations through 3 overarching rules that apply across all areas of firm conduct, requiring firms to:
  - act in good faith toward retail customers
  - avoid causing foreseeable harm to retail customers
  - enable and support retail customers to pursue their financial objectives
- **Four sets of retail customer outcomes rules and guidance** clarify general conduct requirements in areas representing key elements of the firm-consumer relationship:
  - the governance of products and services
  - price and value
  - consumer understanding
  - consumer support

**2.9** By setting general standards of conduct but giving firms scope to determine how best to deliver good outcomes for retail customers, the Duty provides room for innovation and competition in consumers' interests.

## The secondary international competitiveness and growth objective

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- 2.10** Our new secondary objective came into force on 29 August 2023. It requires us, subject to aligning with international standards, to facilitate the international competitiveness of the UK economy (including the financial services sector) and its growth in the medium to long term. As we work towards our primary objectives, we must look at how our work affects our secondary objective and advances this objective so far as reasonably possible.
- 2.11** Our work to advance our primary objectives plays an important role in creating a safe, trusted, and stable environment for firms to compete and innovate. Under our new objective, we will consider policy options that sufficiently advance our primary objectives and better enable firms to thrive and innovate in the UK and to compete internationally.
- 2.12** As a set of high-level, outcomes-based requirements, the Duty can allow for fewer detailed rules and for a flexibility that fosters competition and innovation. This can help increase consumer participation and the ease of doing business. Clear, effective, and proportionate rules and guidance are a necessary component to enhance our markets.



## Existing reviews of conduct requirements

**2.13** There are existing reviews of our conduct requirements in addition to this CfI. Initiatives underway to review some of our rules include:

- **The Rule Review Framework:** We have developed a feedback tool under the Rule Review Framework, to gather feedback and evidence on where our rules are not working as intended. Where a rule needs to be reviewed, we build this into our business planning and prioritisation.
- **The Smarter Regulatory Framework (SRF):** We are working with the Treasury on the transfer of assimilated EU financial services law into our Handbook and making changes, where appropriate, to suit the domestic context. We have published information on our approach to the repeal and replacement of assimilated law with FCA rules, together with a timetable. Where work is already advanced, it won't always be possible to take account of feedback to the CfI in our work on individual SRF files, for practical reasons, to avoid creating a delay.

**2.14** This CfI supports these existing initiatives by adopting a wider, thematic approach to where we can refine our retail conduct rules and guidance. Below, we set out some examples of our approach.

### Examples: Work to review our Handbook as part of the SRF

#### *Disclosure requirements for Consumer Composite Investments*

*In this example, we describe an area where we are already acting under the SRF to rely more on outcomes-focused rules.*

Currently, there are requirements, introduced while the UK was a member of the EU, for firms to provide standardised disclosures for Packaged Retail and Insurance-based Investment Products (PRIIPs).

The assimilated EU law has now been reviewed with a view to balancing support for UK businesses with ensuring retail investors receive appropriate disclosures to make informed decisions.

We are working with the Treasury to introduce a new disclosure regime that caters for the various products and investment vehicles within it. This replacement regime will be comprised of new rules in our Handbook about Consumer Composite Investments and will also rely on the Duty.

We published a discussion paper in December 2022 seeking feedback on possible new requirements, which would partly rely on Duty requirements. We noted that the Duty will help us design an outcomes-focused regime which reduces rigidity and one-size-fits-all rules. This should enable greater innovation in disclosure that benefits retail investors and firms. We plan to publish a consultation on our proposed rules later in 2024, in preparation for those rules coming into force, when the Treasury repeals the assimilated PRIIPs regulatory framework.

### ***Distance marketing and e-commerce requirements***

*In this example, we outline some rules, derived from EU legislation, where we may want to consider options for simplification as part of the SRF, if appropriate.*

Some of our sectoral rulebooks include rules that are derived from, and implemented, the EU Distance Marketing Directive and the E-Commerce Directive. This includes rules for retail investments, bank accounts, insurance, mortgages, funeral plans, and consumer credit.

The rules apply where customers want to arrange a contract by phone or online. There are detailed requirements mandating the information that must be provided by firms before a contract can be entered into.

We could consider if any of these requirements, involving less critical consumer protections, are now too prescriptive and inflexible, limiting engagement with customers when using these forms of communication. The high-level requirements under the Duty might be sufficient to ensure appropriate levels of consumer protection. Future reforms would be taken forward as part of the SRF.

- **Regulatory initiatives, including participating in reviews of legislation:** We conduct reviews of our policy where market developments, or other factors, require that we do so. We also support the Treasury when it conducts reviews of relevant policies and legislation. We, alongside the Treasury and other statutory regulators, outline the work we are conducting twice a year in the Regulatory Initiatives Grid. Below, we include some examples of ongoing reviews affecting our Handbook.

### **Examples: Regulatory initiatives to review requirements on firms**

#### ***Consumer Credit Act 1974 reform***

*This example discusses how we could take account of the Consumer Duty in future work to bring parts of the Consumer Credit Act 1974 (CCA) into our Handbook.*

The CCA requires firms to provide consumers with information before entering an agreement and at key points during the agreement. The purpose of these requirements is to enable consumers to compare products and ensure they have sufficient information to understand their obligations and rights under an agreement. This is particularly important where users of credit products may show characteristics of vulnerability or have low financial capability. In addition to the CCA's requirements, there are also high-level rules in our Handbook.

The requirements of the CCA are highly prescriptive and inflexible. Some stakeholders argue the level of prescription can lead to consumers not engaging with the information, or act as a barrier to firms engaging effectively with customers in financial difficulty. It is also sometimes argued that the current

requirements can make it more difficult to provide appropriate information through the digital channels that consumers frequently use to apply for and manage credit agreements.

As part of its review of the CCA, the Treasury previously proposed repealing the CCA's information requirements and for us to recast them in our Handbook to create a more modern and flexible regime. We would need to balance the extent to which prescriptive rules might be needed, so that consumers are given the information that they need, against providing enough flexibility for firms to deliver good outcomes for their customers under the Duty. To achieve this, we would need to undertake research to understand how consumers best engage with and understand the information presented to them.

### ***The Advice Guidance Boundary Review***

*This example discusses how the outcomes-focused rules of the Duty may play a role in our ongoing work with the Treasury to help consumers find advice and guidance about saving and investing.*

Many consumers struggle to make critical decisions about saving and investing, or accessing their pensions, without help. We are concerned that consumers aren't seeking support where it would be in their interests to do so. We want to build an advice and guidance framework which consumers can trust, recognising the complexity that can be faced when making financial decisions.

To achieve this, we are working jointly with the Treasury to create a system that ensures consumers get the help they want, at a time they need it and at an affordable cost. In December 2023, we published a joint discussion paper setting out options to address these issues. While we are still developing our thinking on how regulation may best support industry development to help meet consumers' needs in this area, we expect that the Duty will play a central role in making sure that consumer protection remains at the core of any future regime.

## Chapter 3

# The purpose of this Call for Input

- 3.1** In this chapter, we set out what we want to achieve when conducting this work and its impact on our objectives.

## The Call for Input and review of our rules

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- 3.2** We are interested in views on how far it may be appropriate and beneficial to place greater reliance on the Consumer Duty in place of specific rules and guidance.

- 3.3** There may be rules and guidance where:

- **Similar materials relate to broadly equivalent requirements or expectations of conduct:** Removing rules or guidance that cover quite similar ground to Duty provisions, or consolidating other materials that are similar to each other, would help simplify the Handbook.
- **We may be able to achieve substantially the same consumer outcomes while giving firms more flexibility and greater ability to innovate:** Reliance on high-level standards tends to better support flexibility and innovation, and greater futureproofing, than more detailed or prescriptive rules. This could help firms, including new entrants, and support innovation in the market for the benefit of consumers. We discuss the comparative merits of detailed and high-level rules in Chapter 4.
- **There may be a lack of clarity on how requirements under the Duty and under other rules interact:** Being clearer on the standard of conduct that applies should reduce regulatory uncertainty and lower firms' compliance costs. This could involve, for example, removing materials that set similar, but not identical, requirements or expectations to those under the Duty, or giving guidance on how sectoral requirements and requirements under the Duty interact.

### **Example: Broadly similar requirements or expectations under the Consumer Duty and other rules**

#### *Providing appropriate redress*

*In this example, we describe a case where the Duty and other rules have broadly similar requirements, and where we may want to consider options for simplification.*

Provisions in the Dispute Resolution: Complaints (DISP) Sourcebook (DISP 1.3.3R and 1.3.6G) and the Consumer Duty requirements in our Principles for Businesses Sourcebook (PRIN 2A.2.5R and rules and guidance in PRIN 2A.10) cover similar ground, involving firms taking appropriate action once consumer harm has been identified.

We could consider if these similar, but not identical, requirements or expectations could be helpfully consolidated, so that a single set of materials sets out what firms should do.

**Question 1:** Could any of our retail conduct rules or guidance be usefully simplified or removed by relying on requirements under the Consumer Duty? Please tell us:

- a. which rules or guidance (e.g. Handbook chapters, or non-Handbook guidance) you consider cover similar ground to Duty requirements, or are otherwise overly detailed or prescriptive, or arguably redundant in light of other materials, and why
- b. your thinking on the likely benefits including, for example, any estimate on compliance cost savings
- c. what the impact could be on consumers or consumer protection, or other relevant considerations

**Question 2:** Is there a lack of clarity on how requirements under the Duty and other FCA rules interact? Please tell us where this issue arises and your views on how it could be addressed. For example, would guidance on the interaction be helpful?

**3.4** We would also like to hear views on other areas of the Handbook or non-Handbook guidance that could be simplified, beyond those where there is overlap with the Duty. For example, due to changes in the way business is now transacted, some existing rules may be largely redundant. We have committed to a post-implementation review of the Duty, so we are not seeking responses to this CfI with suggestions for changes to the Duty. Similarly, where we have recently consulted on and introduced new rules, such as under the SRF, we would want to give time for those rules to become embedded before considering changes.

**Question 3:** Are there other areas in our rules or guidance, beyond those with an overlap with the Duty, where we should consider simplification or removal? Please tell us:

- a. which rules or guidance (e.g. Handbook chapters, or non-Handbook guidance) we should review, and why
- b. your thinking on the likely benefits including, for example, any estimate on compliance cost savings
- c. what the impact could be on consumers or consumer protection, or other relevant considerations

## How this Call for Input links to our objectives

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### Consumer protection

- 3.5** The Duty was a major regulatory intervention to improve protections for consumers. It sets high, clear general standards of conduct in retail markets. We want to maximise how far the Duty can help deliver better outcomes for consumers. This CFI should help inform our approach.
- 3.6** Our work to protect consumers also helps support healthy competition, integrity in the financial system, and the sustainable growth and international competitiveness of the UK.

### Competition

- 3.7** The Duty allows firms to compete more effectively in consumers' interests through designing products and services that meet consumer needs and offer fair value, and requiring firms to act in good faith towards their retail customers. Consumers, too, are put in a position to make informed decisions and act in their own best interests.
- 3.8** We can help firms, including new entrants, and innovation in the market by addressing instances where there are requirements which cover too similar ground. Our expectations of firms may be more prescriptive than they need to be now that the Duty requirements are in place, or ambiguities about the interactions between requirements might create additional regulatory risk for firms and potentially confusion for consumers.
- 3.9** We also know that some firms, particularly smaller firms and new entrants, tend to benefit from more clearly-stated regulatory expectations in looking to grow their businesses compliantly and with greater reassurance that they are meeting regulatory requirements. This is something we will consider when assessing what requirements can be simplified or removed, to prevent unintended negative impacts on competition.

### Market integrity

- 3.10** Though we have conducted reviews into wholesale markets over recent years, we are interested in views on whether there is action we can take to support this objective in any broader review of our rules and guidance. A review focused on retail market issues also has the potential to support this objective. For instance, the Duty can support effective and reliable markets because it puts consumers' interests at the heart of firms' business, and supports orderly resolution and return of client assets, as well as a culture of identifying and managing conflicts of interest well.

### Secondary international competitiveness and growth objective

- 3.11** By reviewing our rules and guidance to reduce complexity or relying on high-level standards under the Duty, we have the potential to reduce regulatory costs, making the UK a more attractive place for financial services firms to be based. Firms would be able to devote resources to more productive areas of their business while still acting to deliver good customer outcomes.

**3.12** Rules that clearly set out our core requirements, while at the same time allowing room for innovation and competition, can promote the international competitiveness of the UK and sustainable economic growth in the long term.

**Question 4:** Do you agree that work towards simplifying our retail conduct rules can help us meet all our objectives, including the secondary objective? Please explain why or why not.

## Chapter 4

# High-level and detailed requirements

- 4.1** Many of our sectoral rules prescribe specific actions for firms, tailored to address particular harms in the relevant market. The certainty and consistency this grants across a market can have benefits for firms, consumers, and competition.
- 4.2** While we have published supporting guidance, the Duty does not require all firms to act in the same way to deliver good outcomes. Its requirements are intended to lead firms to focus on outcomes for retail customers in the context in which they operate, and provides flexibility over how firms achieve these outcomes.
- 4.3** Both approaches have benefits in different contexts. We outline below some of the circumstances in which each approach might be more appropriate.

## Where high-level requirements might be more appropriate than detailed or prescriptive rules

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- 4.4** There are various factors that might lead us to conclude that the high-level rules of the Duty can deliver a sufficiently similar, or possibly better, degree of consumer protection than existing, more detailed rules and guidance. These may include:
- **Complexity:** Drivers of harm can be complex or changeable, and it may be difficult for detailed rules to fully address them. This can mean that detailed rules become too complex or prescriptive while still failing to set appropriate requirements for certain aspects of consumer protection. Firms can focus on meeting the letter of more detailed rules without also meeting the spirit, or some firms may try to exploit regulatory loopholes which can exist in detailed rules. The flexibility of high-level requirements may be better able to address these issues and achieve the right outcomes, without causing unnecessary costs to firms.
  - **Innovation in the market:** The flexible and adaptable standards of high-level requirements should provide firms with scope to tackle harms and deliver good outcomes for retail customers within the context of their own business model, customer base and product offering. This can promote competition in consumers' interests.
  - **Change:** Markets or technology in a sector might be nascent or changing rapidly, as may market practice and drivers of harm. Detailed rules might fail to keep up with changing conditions and even become obsolete over time. High-level requirements might be better able to deliver benefits to both consumers and firms.



### Example: Less prescriptive rules with greater flexibility

#### *Event-driven disclosure in the mortgage sector*

*In this example, we outline a case where removing prescriptive mortgage disclosure rules and relying on the Consumer Duty's high-level rules might provide greater flexibility for firms to deliver good consumer outcomes.*

Consistent and comparable disclosure is central to the mortgage regime in MCOB. For instance, MCOB 7.6.28R prescribes that, before agreeing certain contract variations, customers must receive specified information on their outstanding balance, future payments, and interest rate.

When the Mortgage Charter was introduced in June 2023, it gave customers opportunities to vary their contracts, such as by switching temporarily to interest only payments. Some firms found it difficult to comply with our precise disclosure requirements immediately, particularly in more complex customer circumstances. To ensure firms could rapidly provide support to customers in line with the Charter, we provided temporary supervisory forbearance on this rule.

It is important that customers get appropriate information about the implications of varying their mortgage contract, including the costs and risks, when considering such options. But what information is relevant and timely will depend on the facts. We could consider removing this prescription and rely instead on the Duty's cross-cutting rules and its consumer understanding requirements. This may give firms greater flexibility to meet the needs of customers and deliver good outcomes.

## Where more detailed or prescriptive requirements might be more appropriate than reliance on high-level rules

**4.5** On the other hand, in some situations, a standardised and more detailed approach may be desirable, as it may provide more certainty, transparency and/or consistency for consumers, firms and the market as a whole. Factors to consider here may include:

- **Scope:** The Duty's rules apply only to retail market business but many of our rules cover non-retail markets or may cover both markets.
- **Regulatory certainty:** We would need to consider the impact on regulatory certainty if we look to remove detailed rules. For example:
  - Where detailed rules already apply, or there is detailed guidance on high-level rules, both we and firms may have developed an understanding of the standard of conduct required. Removing the detail may result in a loss of certainty.
  - Clear and narrowly-focused rules, such as those introduced under our product intervention rulemaking powers to address serious concerns, can deliver certainty for firms and the market in a way that high-level rules may not be able to replace.

- **Standardisation:** Taking a consistent approach across a sector can support comparability, improve transparency, or drive market changes to support effective competition. For example, if disclosure of a product's charges is standardised across a sector, this enables competition to function more effectively in consumers' interests. Consumers can shop around and compare products more easily.
- **International considerations:** We are committed to maintaining appropriate consistency with international regulatory standards and other international commitments. These commitments take various forms, including trade and market access arrangements agreed by Government (e.g. the Berne Financial Services Agreement) and standards set by international standard setters (e.g. the International Organization of Securities Commissions (IOSCO)). Having consistent rules between various jurisdictions can bring benefits, e.g. for deference and equivalence regimes, or for firms operating in multiple jurisdictions.

### **Examples: Using detailed rules to provide regulatory certainty and to support standardisation**

*In these examples, we consider cases where it may not be appropriate to rely solely on the Duty, as more detailed and prescriptive rules in different sectors may reduce uncertainty for firms and provide better outcomes for consumers.*

#### ***Product governance requirements***

The Product Intervention and Product Governance Sourcebook (PROD) contains similar requirements to the Duty's products and services outcome. PROD is divided into sections, with different rules applying to different sectors, including investments, insurance, and funeral plans. Where relevant, firms must comply with these rules, and the Duty's rules under the products and services outcome don't apply.

The PROD rules are tailored to different markets and have been developed to address specific harms identified in these sectors. They are more detailed than, and set additional requirements to, those under the Duty.

There is a risk that the loss of the sector-specific rules may reduce consumer protections or could make it harder for firms to understand our expectations. In particular, if we removed the current PROD requirements in sectors with complex manufacturer-distributor chains, it may create further uncertainty. We may need to retain some of these requirements, or to amend the requirements in the Duty, if we looked to simplify these rules.

#### ***Identifying client needs and advising on general insurance***

Our Insurance Conduct of Business Sourcebook (ICOBS) goes beyond some of the Duty requirements. For instance:

- The Duty's high-level rules include requirements for firms to enable and support customers to pursue their financial objectives and for firms to support consumer understanding.

- ICOBS includes more detailed requirements for firms to ensure that customers are only sold insurance products they want and need. The rules require firms to ask questions to establish these demands and needs, and to provide the customer with a statement of demands and needs before a contract is agreed.

While we could modify or remove some ICOBS rules and seek to rely on the Duty's high-level requirements, the Duty doesn't prescribe a consistent approach for firms to follow. This could lead to inconsistent outcomes for consumers. The pros and cons of a shift towards relying on high-level requirements would, therefore, need to be carefully considered.

## Where it might be appropriate to have a hybrid approach using both high-level and detailed rules

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- 4.6** There may also be scenarios where we could look to use a more hybrid approach, relying on the Duty to an extent but also retaining more detailed rules where they are necessary for a more effective or clearer regulatory position.

### **Example: Finding the balance between high-level and more detailed rules**

#### ***Retirement planning***

*We outline an example where we see a case to rely on both high-level and more detailed rules.*

Consumers now have significant flexibility in how they save for later life and access their retirement savings. However, this requires consumers to make complicated financial decisions.

Our [Retirement Outcomes Review](#) identified a number of specific harms in the pensions market following the introduction of pension freedoms. To address these, we introduced a package of prescriptive policy interventions, including investment pathways, restrictions on defaulting consumers into cash, and reforms to 'wake-up packs', which give consumers prescribed communications as they approach retirement.

We consider these interventions to be working as intended, but we know there is more to do to support consumer decision-making in this area. Importantly, we need to take a rounded view of how best to support consumers. This is particularly pertinent given consumers will increasingly rely on defined contribution pensions as their major source of retirement income.

Following the Duty's implementation and alongside the ongoing Advice Guidance Boundary Review, we are considering how to ensure the pensions regulatory framework is fit for the future. This includes looking at where a less-prescriptive approach to our Handbook rules may be in the best interest of consumers.

However, there will be circumstances where prescriptive rules remain appropriate. For example, our work on defined benefit (DB) pensions transfer advice shows many firms are struggling to give consistent suitable advice. This is largely due to poor practices or weak record keeping. As a result, too much of the DB pensions transfer advice we see is either unsuitable or has material information gaps that mean we cannot assess suitability. Given the high risk of consumer harm from unsuitable advice in this market, we have updated our rules and guidance on several occasions in the last few years. Any work to rely on high-level rules in this market would need to consider carefully where the balance lies, as we need to maintain an appropriate level of detailed requirements.

**Question 5: In which circumstances do you think it is appropriate to rely on:**

- a. high-level rules under the Consumer Duty**
- b. more detailed rules**
- c. a hybrid approach with both high-level and detailed rules?**

## Costs and benefits of high-level and detailed expectations

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- 4.7** We would need to consider the costs and any benefits, including potential savings, from relying more on the Duty. These costs and benefits can fall on both firms and consumers, or may come from increased competition in the market. For instance, these may arise where our current approach creates barriers to market entry or expansion for firms, or supports more innovation and better consumer propositions.
- 4.8** All regulatory change, including rule simplification, carries a familiarisation and compliance cost for firms that need to understand and adapt to new rules. Retail financial services firms have also been through a period of significant rule changes, notably with the introduction of the Duty.
- 4.9** The Duty provides greater flexibility but also means firms must be comfortable taking more subjective decisions. Firms must consider whether their business models and product offerings meet our expectations and if they deliver good outcomes to customers. Without the certainty from more detailed rules, this can lead to additional costs for firms.
- 4.10** In particular, some smaller firms, start-ups, fintechs and mutuals may lack the compliance resources of larger firms. They may need additional support to understand our expectations if we simplify or remove rules and rely on the Duty's high-level requirements.

- 4.11** We are aware that issues around a private right of action (PROA) may get raised when considering potential changes to our Handbook. FSMA provides that a private person (generally, individuals, not businesses) who has suffered a loss through a firm's breach of one of our rules has a right to take legal action for damages from the firm. Several routes to redress (including compensation from the Financial Services Compensation Scheme and section 404 FSMA schemes) depend on there being a PROA. We can switch off the PROA when making or changing a rule and no PROA is currently attached to any of the requirements under the Duty. We may need to consider the impact this has if, in the future, we relied on the Duty to remove rules to which a PROA applies. However, we are not seeking input on this issue at this stage as it would need to be considered in the context of specific proposals.
- 4.12** There may also be economies of scale where all firms in distribution chains have similar processes designed around the requirements of more detailed rules. Where firms have greater flexibility and can develop bespoke systems, this may lead to additional costs for other firms. Additionally, in the future, more detailed rules in a machine-readable Handbook may be desirable. More detailed rules could make it easier for innovative regtech models to provide compliance solutions for firms.

**Question 6:** **What do you see as the main costs and benefits of making changes to the FCA Handbook by simplifying or removing detailed expectations of firms?**

**Question 7:** **Where do you see high-level or detailed expectations having differing costs or benefits for different types or sizes of firm?**

## Chapter 5

### Next steps

- 5.1** Over the course of the summer and autumn, we will engage with a wide range of stakeholders.
- 5.2** The Cfl closes on 31 October 2024.
- 5.3** Factors we are likely to consider in deciding which aspects to prioritise from submissions include:
- our objectives and how we can meet our primary objectives in a way that also advances our secondary objective of facilitating the international competitiveness of the UK economy and its growth in the medium to long term
  - other regulatory requirements, such as the regulatory principles set out in FSMA
  - the importance and scale of the issue highlighted both for firms and the market as a whole
  - the likely impact on consumers and consumer protection
  - the evidence available, including on the costs and benefits of any suggested ideas for simplification, as set out in Chapter 4
  - how a suggested simplification interacts with the factors set out in Chapter 4 on whether high-level or detailed requirements are more appropriate for particular areas of our rules and guidance
- 5.4** We will coordinate any action taken following this Cfl with the other ongoing reviews of aspects of our rules and guidance set out in Chapter 2. It may be more appropriate to assess some feedback as part of these other reviews, and we will seek to avoid duplication.
- 5.5** We intend to outline our approach in the next publication in early 2025.

## Annex 1

### Questions in this paper

- Question 1:** Could any of our retail conduct rules or guidance be usefully simplified or removed by relying on requirements under the Consumer Duty? Please tell us:
- a. which rules or guidance (e.g. Handbook chapters, or non-Handbook guidance) you consider cover similar ground to Duty requirements, or are otherwise overly detailed or prescriptive, or arguably redundant in light of other materials, and why
  - b. your thinking on the likely benefits including, for example, any estimate on compliance cost savings
  - c. what the impact could be on consumers or consumer protection, or other relevant considerations
- Question 2:** Is there a lack of clarity on how requirements under the Duty and other FCA rules interact? Please tell us where this issue arises and your views on how it could be addressed. For example, would guidance on the interaction be helpful?
- Question 3:** Are there other areas in our rules or guidance, beyond those with an overlap with the Duty, where we should consider simplification or removal? Please tell us:
- a. which rules or guidance (e.g. Handbook chapters, or non-Handbook guidance) we should review, and why
  - b. your thinking on the likely benefits including, for example, any estimate on compliance cost savings
  - c. what the impact could be on consumer protection, or other relevant considerations
- Question 4:** Do you agree that work towards simplifying our retail conduct rules can help us meet all our objectives, including the secondary objective? Please explain why or why not.

**Question 5:** In which circumstances do you think it is appropriate to rely on:

- a. high-level rules under the Consumer Duty
- b. more detailed rules
- c. a hybrid approach with both high-level and detailed rules?

**Question 6:** What do you see as the main costs and benefits of making changes to the FCA Handbook by simplifying or removing detailed expectations of firms?

**Question 7:** Where do you see high-level or detailed expectations having differing costs or benefits for different types or sizes of firm?



## Annex 2

# Abbreviations used in this paper

<b>Abbreviation</b>	<b>Description</b>
<b>CCA</b>	Consumer Credit Act 1974
<b>Cfi</b>	Call for Input
<b>DB</b>	Defined benefit pension scheme
<b>DISP</b>	Dispute Resolution: Complaints Sourcebook
<b>EU</b>	European Union
<b>FCA</b>	Financial Conduct Authority
<b>FSMA</b>	Financial Services and Markets Act 2000
<b>ICOBS</b>	Insurance Conduct of Business Sourcebook
<b>IOSCO</b>	International Organization of Securities Commissions
<b>MCOB</b>	Mortgage Conduct of Business Sourcebook
<b>PRIIPs</b>	Packaged Retail and Insurance-based Investment Products
<b>PRIN</b>	the Principles for Businesses
<b>PROA</b>	Private right of action
<b>PROD</b>	Product Intervention and Product Governance Sourcebook
<b>SRF</b>	Smarter Regulatory Framework

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