

A SUMMARY

The FCA's Future Approach to Consumers

In the FCA's Mission 2017, the regulator promised to deliver a range of documents which would set out its expectations and provide clarity for firms on its regulatory framework. In its [Future Approach to Consumers document](#), the first of a triad of communications, the FCA outlines how it will advance its operational objective of securing appropriate protection for consumers. It is perhaps no coincidence that this paper is the first to land, as consumer protection has always been at the forefront of FCA thinking. Our paper provides a useful summary of the FCA's paper.

The paper sets out initial views on what good looks like for retail consumers and provides certainty around the FCA's regulatory framework by setting out how it will diagnose and remedy actual and potential harm. The approach has been influenced significantly by the results of the regulator's [2017 Financial Lives Survey](#), which firms should read in conjunction with this paper. The document also follows the [Mission](#) and [2017/18 Business Plan](#) in setting out more clearly the regulator's expectations and how it will regulate the industry. The benefit itself is mutual, the industry has better guidance and it allows the FCA, with the length and breadth of oversight it must now maintain, to target its resources more strategically.

However, this paper is not the final say on the FCA's approach to protecting consumers. Take note of the consultation areas, respond and look out for final guidance and further clarification on its expectations on the road ahead.

The FCA's vision

In the FCA's mind, the following represents a market operating well and in the interests of its customers. This vision provides an insight into the ultimate outcomes expected from the activities that will be carried out:

- Consumers can buy the products and services they need because they are sold in an environment which is clear, fair and not misleading with a good choice architecture;
- There are high quality, good value products and services that meet consumers' needs;
- Everyone is able to access the financial products they need and the needs of vulnerable customers are taken into account;
- Consumers are appropriately protected from harm.

The FCA repeatedly makes it clear that it has finite resources and therefore needs to provide more protection to those consumers who need it most. This, alongside an underlying vibe from Andrew Bailey on consumers' taking more responsibility for their actions, is a significant departure from previous FCA thinking and a material change in focus and approach to consumer protection. In practice, this means that the regulator will prioritise the most vulnerable and least resilient groups of consumers. As a result, you should also make sure you are appointing adequate time and resources to ensuring any consumers that fall into these groups are treated fairly and achieve positive and fair outcomes.

The FCA's expectations

The FCA outlined the following expectations in relation to consumers:

1. Principle 6 and treating customers fairly should be at the foundation of all consumer focused activities;
2. Consumers should take responsibility for their own decisions, but firms must recognise that 'ideal' customers (ones who make rational choices

and judgments and are not influenced by biases) are few and far between;

3. Firms should not exploit biases and should exercise due care in cases of vulnerability;
4. Firms will need to demonstrate that their decisions are based on a clear understanding of their target market.

Let's just focus on expectation number two for a moment. Whilst it is generally acceptable to expect the average consumer to take responsibility for their actions, FCA research determines that these average (or 'ideal') customers are not in the majority. A likely result will be a requirement to have a smaller constant core of financial services for everyone, with greater moving parts for those individuals whose circumstances change. Therefore, firms need to have in place appropriate processes and policies to provide greater protection to those consumers that are temporarily or permanently unable to make financially competent decisions.

No doubt this is an area that will cause a deal of consternation amongst industry players, which is why it forms one of the consultation areas of the paper. If you have a view, we urge you to respond.

The consumer landscape

The consumer landscape is in a continual state of evolution as economic, political and social changes interact to shape consumers' needs, increase pressure on their ability to effectively manage their financial affairs and buy products and services that meet their needs. Industry action, or inaction, can lead to these issues being exacerbated or not appropriately addressed. We've provided a useful round up of all the areas here, but it is worth considering the below in the context of your own organisation.

What are the issues in society?

- We have an aging population which means there are different types of consumers and their needs are varying by extremes;
- Pensions and savings habits are changing, with the emphasis being on the consumer to save rather than relying on state support. There remains a significant challenge that many consumers will not have saved enough to live the lifestyle they expect at retirement age;

- Distribution of home ownership has shifted from the young, leading to wealth locked into property and increasingly indebted younger generations;
- Household debt is rising and could set to be the norm if interest rates remain low (over-indebtedness is a key priority for the FCA).

What are some of the typical barriers for consumers?

- Many consumers have low financial resilience and this is not just limited to those on a low income – those with high outgoings, such as a large mortgage, are also at risk;
- Customers are confused and jaded by too much complex financial and technical information;
- Many are not willing, or not able, to access financial advice leading to more consumers making complex financial decisions without proper guidance;
- Some consumers don't know where to turn when things go wrong and the complaints system doesn't always work.

Where is the market not working effectively?

- Lack of differentiation, or the perception of it, in some products and services means some markets are not functioning effectively nor competitively;
- FinTech is increasing and reducing barriers to entry which will promote competition, however there is a risk that this will not support or benefit all consumers and better outcomes for consumers could lead to a compromise on protection;
- Inclusion is beginning to lead to greater access to financial products and services for some, however increased segmentation could lead to others being priced out;
- Inertia remains a challenge despite improvements in communication, presentation of choices and decision-making information;
- Information asymmetries and biases are influencing some consumer behaviour leading to poor outcomes in some markets.

Financial exclusion is mentioned many times, which points to this being one of the tenets of the future approach by, for example, monitoring and attempting to minimise the exclusion of certain market participants.

The FCA acknowledges that these issues combined are having a profound effect on how consumers make decisions. For example, technology is driving many of the interactions between firms and their customers, while financial constraints on younger generations is driving their spending and saving habits. However, a one-size-fits-all approach is not going to cut it - those excluded from technology face a significant disadvantage. Similarly, those faced with the reality that acquiring property will likely not be within their experience are choosing to instead spend rather than save, which is also leading to rising debt. Ultimately, this could lead someone to become temporarily or permanently vulnerable.

Vulnerable and excluded customers

Much has been made about vulnerable customers and firms' approach to effectively managing them over the past 12 months and there is more to come in the future. Vulnerable customers are particularly susceptible to harm because of their circumstances, either because they are less able to engage with the market or because they would suffer disproportionate harm if things were to go wrong.

The FCA has split its vulnerable customers categories into four new areas to aid clarity:

- **Health (5% of consumers)** – consumers whose day-to-day activity is reduced significantly through health conditions or illnesses;
- **Financial Resilience (30% of consumers)** – consumers who are highly exposed to changes in markets (i.e. interest rate rises) or their own circumstances;
- **Life Events (19% of consumers)** – consumers affected by life changing events, such as divorce, redundancy or death of a close family member;
- **Capability (17% of consumers)** – consumers with very low knowledge of financial matters and/or confidence in managing their finances.

Remember, consumers can suffer from more than one vulnerability at the same time and having one, or more, vulnerabilities should not exclude consumers from the same options as everyone else.

The FCA highlights that vulnerable customers are less satisfied with financial services, either due to perceived poor treatment, access to services or discrimination/bias due to their vulnerability. Therefore, the regulator will be keen to modify this through its forthcoming activities.

Devising an approach that works for all customers is a fine balancing act and one that can be daunting, given the sheer volume of customers some firms have. However, it is possible to develop a process that can work for all customers and put them on a level playing field, while giving some of the players a bit more help.

More to come from us on this in the very near future, so watch this space!

Regulatory approach

The FCA is keen to include all industry participants in its bid to deliver better outcomes for consumers and will therefore be adopting a collaborative approach. Whilst it might be easier to impose remedies or hard requirements on firms, a softer approach is proving more effective, with the FCA releasing guidance through Occasional Papers and its powers of convening.

Underpinning all that the FCA does is the key principle to act in the best interests of clients and to treat them fairly. This should not be viewed as incompatible with the commercial aims of a firm.

The FCA's regulatory approach will be as follows:

1. **Gather information** - the FCA will collect information and evidence to identify potential harm through ongoing supervision, intelligence from customers, whistleblowers and complaints data as well as its recent Financial Lives Survey;
2. **Determine the harm** - in order to determine the extent, cause and development of the harm identified the FCA will use its diagnostic tools such as investigations, thematic reviews and market studies, as well as skilled persons reports if the need arises;
3. **Act on the information and analysis** - depending on whether the FCA feels the issue needs resolving or simply reducing, this will result in supervisory or enforcement action, changes to policy and even variation or removal of permissions.

In the paper, the FCA notes: "We regulate for the real world and wherever possible our approach will be based on what we know about how consumers really behave rather than theory." - this is a nod to the focus on outcomes and principles rather than just rules and also confirms the importance that the FCA places on evidence from behavioural science about consumer bias and behaviours.

Next steps

So, what are the next steps for firms? A review and revamp of your own approach to customers will be essential and to help you on your way we'll be providing some guidance. To get you started however, consider the following:

- Encourage consumers to communicate their circumstances by reducing barriers to disclosure and having appropriate processes in place for escalating vulnerability cases;
- Don't penalise customers for their disclosure!
- Factor the vulnerability of customers into your risk appetite and tailor products accordingly;
- Make your products and services simpler to understand, take the legalese out of the information you provide and don't overburden them with superfluous information.

Firms should read the paper in full and contribute to the areas of consultation (closing 5th February) which focus on:

- Whether customers should take responsibility for their actions and the circumstances for where they shouldn't;
- Whether firms should have proper processes in place for identifying vulnerability;
- Which consumer issues should be within the FCA's remit as opposed to the Government;
- Whether you agree with the FCA's aspirational vision;
- Data sources and metrics that you think the FCA should use;
- Whether you agree with the FCA's proposed framework.

Read Our Key Take-Aways

Visit our website for our key take-aways on the FCA's future approach to consumers.

[Visit website >>](#)



How can we help?

Speak to our FCA experts to discuss your own approach to customers and how you handle vulnerability:
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