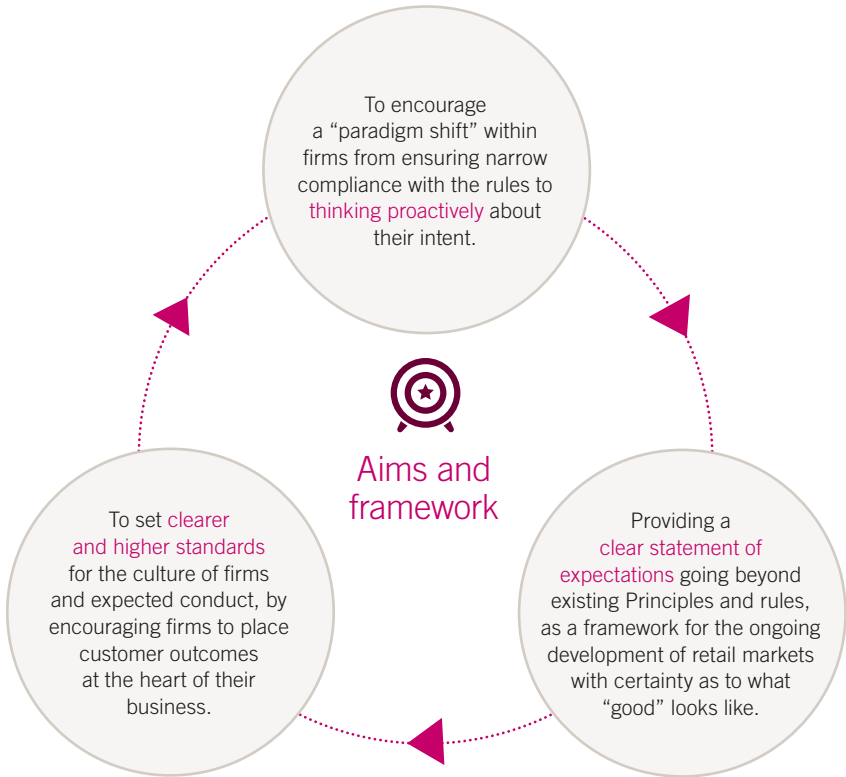
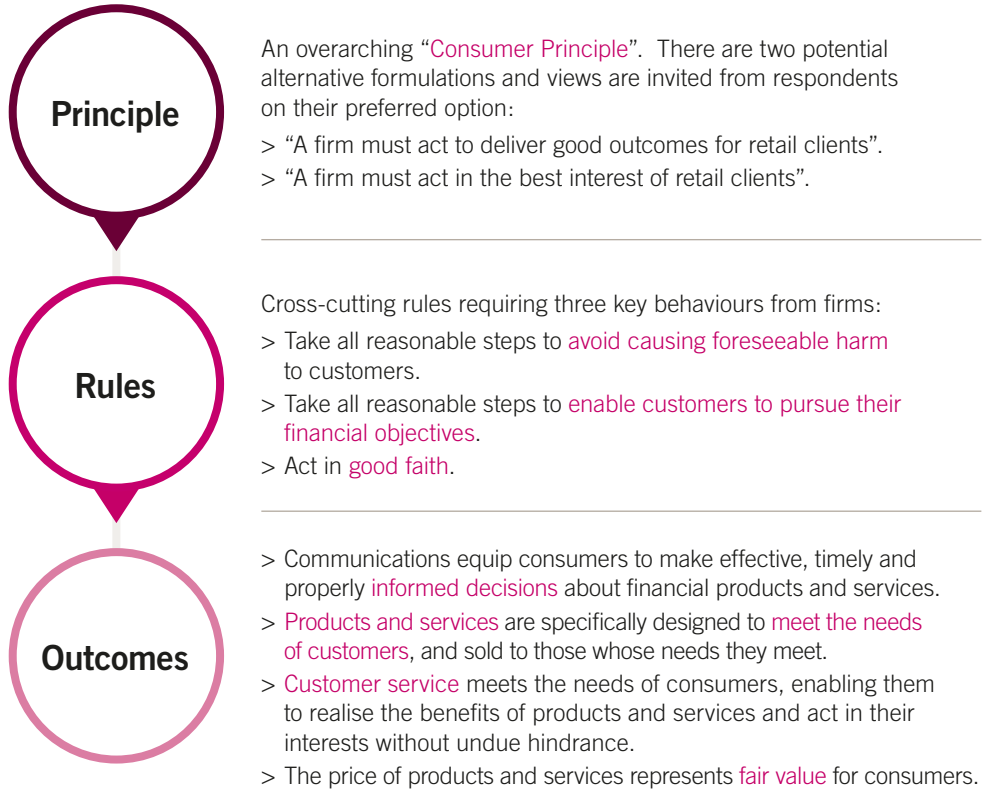


Linklaters

The FCA’s proposed financial services duty of care

A delicate balance



Applicability

The proposals relate to products and services sold to retail clients, i.e. all clients other than professional clients and eligible counterparties. This will include, for example, retail banks, challengers, insurance companies, e-money institutions and registered account information service providers.

The duty is stated to include SMEs to the extent that the FCA regulates the provision of financial services to SMEs. There is tension here as many services accessed by SMEs are unregulated, e.g. lending.

The duty would also include firms without a relationship with the end customer, where they are involved in the manufacture or supply of products and can influence material aspects of the design, target market or performance of a product/service that will be used by consumers.

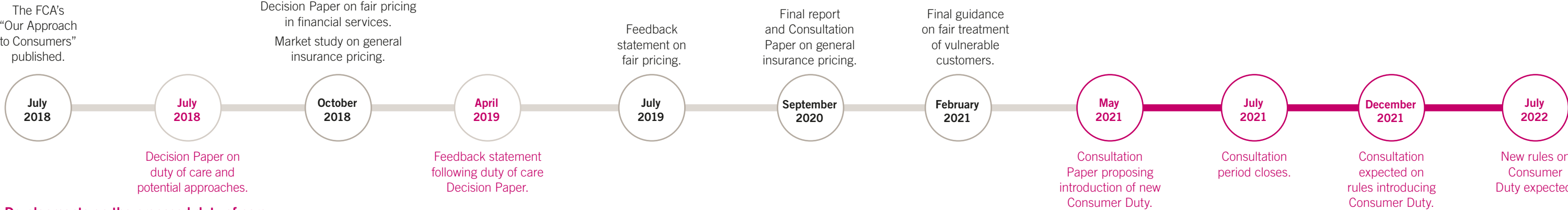
How would the duty link with existing FCA Principles?

There is a clear overlap with existing Principles 6 and 7, though the FCA expects the Consumer Principle to import a higher standard.

It is for discussion whether Principle 6 and 7 should remain for all firms or be disapplied where the Consumer Principle applies. The FCA's preference seems to be to retain existing Principles for all firms to make it easier to apply guidance associated with existing Principles. The value of this overlap is unclear.

The story so far

General developments



Developments on the proposed duty of care

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