

Fintechs and challengers

The implications of the FCA’s proposed consumer duty

A refresher – the proposals in brief

An overarching “Consumer Principle” (either to deliver “good outcomes” or act in clients’ “best interest”).

Cross-cutting rules:

- > Avoid causing foreseeable harm.
- > Enable consumers to pursue their financial objectives.
- > Act in good faith.

Outcomes:

- > Communications so consumers can make informed decisions.
- > Product design to meet customers’ needs, and products sold to those whose needs they meet.
- > Customer service meeting consumers’ needs and avoiding undue hindrance.
- > Price reflecting fair value.

The duty would apply to regulated activity of regulated firms, and only to retail clients (broadly defined).

The duty would not apply retroactively, but will apply to existing products. Firms will need to assess existing product offerings to ensure they comply with new duty.

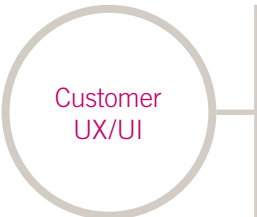


Potential issues



Fintechs commonly leverage data collection and analysis.

- > This can produce useful MI on customer outcomes and facilitate end-to-end monitoring and testing of customer outcomes.
- > The challenge is to do this whilst preserving fintechs’ key USP of being nimble and frictionless.



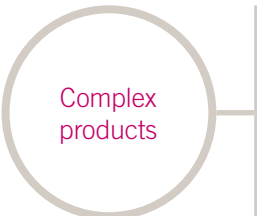
Fintechs offer simplified online/app UX.

- > FCA might regard some UX aspects as “sludge practices”, particularly where there is a risk they discourage consumers from making decisions in their best interests.
- > Over-simplified UIs may downplay important disclosures.
- > Block-text disclosures may be difficult to read on mobile; consider presenting them in a “hierarchy” of detail.
- > Automated proactive communications about product developments (eg sufficient notice of introductory interest rate) may be preferable.



Fintechs address wide target markets with single online/app channels.

- > This runs the risk of offering products to consumers for whom they are not suitable eg premium packages offered to consumers likely to have low income/assets; multiple BNPL arrangements beyond a customer’s servicing capacity. Granular suitability assessments may mitigate this.
- > Online/app channels may not support good outcomes for vulnerable customers. Consider identifying vulnerable customers and offering them non-automated/non-online channels.



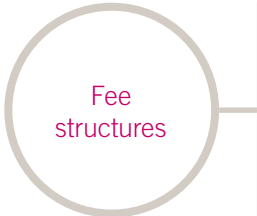
Some fintechs offer complex products that are new in the retail space.

- > Take care to minimise product complexity that may not serve customers’ interests.
- > Formulate UX to promote consumer understanding eg by asking consumers to self-certify their understanding, displaying disclaimers, and/or giving indicative risk-reward calculations.



Fintechs provide novel and innovative products.

- > FCA wants firms to assess “fair value” ie whether prices are reasonable relative to benefits. This is hard to measure in fast-growing product spaces.
- > The FCA views relinquishing privacy as a “cost” – with unclear implications eg for Open Banking services such as budgeting tools.
- > Bank account FSCS protection differs from e-money safeguarding but consumers don’t always distinguish the two.
- > Avoid product features that may disadvantage customers eg long/volatile payment processing times or volatile returns on savings products.



Some innovative products have complex fee structures.


- > Avoid fee/cost surprises for consumers.
- > Consider disclosing fees up-front eg before funds transfer instructions are submitted.
- > Consider flatter fee models eg a payments service with a flat fee to cover payment intermediaries’ fees and cross-subsidise costlier transfers.



Fintechs offer intermediated access to products from wholesalers that are unused to TCF principles.


- > Duty would apply to wholesalers whose activities materially influence the outcomes for consumers.
- > Fintechs and their counterparties will need to allocate responsibilities between them for satisfying the duty.
- > No clarity in the proposals re obligations of off-shore entities.

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