

Subsidiary Legislation made under ss. 620, 621 and 627.

Financial Services (Core Principles and Consumer Duty) Regulations 2024

LN.2024/077

Commencement **9.5.2024**

Amending enactments	Relevant current provisions	Commencement date
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2019-26

Financial Services

2024/077 **Financial Services (Core Principles and Consumer Duty)
Regulations 2024**

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2019-26

Financial Services

**2024/077 Financial Services (Core Principles and Consumer Duty)
Regulations 2024**

In exercise of the powers conferred on the Minister by section 620, 621 and 627 of the Financial Services Act 2019, the Minister has made these Regulations.

**PART 1
PRELIMINARY**

Title.

1. These Regulations may be cited as the Financial Services (Core Principles and Consumer Duty) Regulations 2024.

Commencement.

2. These Regulations come into operation on the day of publication.

Overview.

3. These Regulations set out–

- (a) the core principles that apply to all financial service providers; and
- (b) the consumer duty that applies to specified providers.

Interpretation.

4. In these Regulations–

“the Act” means the Financial Services Act 2019;

“consumer duty” has the meaning given in regulation 8(1);

“core principles” means the core principles set out in regulation 6 and any reference to a numbered principle is a reference to the relevant numbered principle in that regulation;

“financial service provider” means a person who–

- (a) has permission under Part 7 of the Act to carry on one or more regulated activities;
or
- (b) is authorised under Part 18 of the Act;

“retail customer” has the meaning given in regulation 9; and

“specified provider” is to be interpreted in accordance with regulation 7(3).

Guidance.

5.(1) The GFSC may issue guidance on compliance with the core principles or the consumer duty.

(2) Section 37 of the Act applies to any guidance issued under these regulations.

**PART 2
CORE PRINCIPLES**

The core principles.

6. The following core principles are the fundamental obligations that financial service providers must comply with when providing services or conducting business in respect of which they are regulated by or under the Act–

Honesty and integrity

1. A financial service provider must conduct its business with honesty and integrity.

Effective control and management

2. A financial service provider must manage and control its business effectively.

Due skill, care and diligence

3. A financial service provider must conduct its business with due skill, care and diligence, having proper regard to risks to its business and clients.

Market conduct

4. A financial service provider must observe proper standards of market conduct.

Protection of client assets and funds

5. A financial service provider must have effective arrangements in place for the protection of client assets and money when it is responsible for them.

Regard to interests of clients

6. A financial service provider must have due regard to the interests of its clients and treat them fairly.

Communication with clients

7. A financial service provider must have due regard to the information needs of its clients and communicate with them in a way that is fair, clear and not misleading.

Conflict of interests

8. A financial service provider must properly manage conflicts of interests.

Suitability of advice to clients

9. A financial service provider must take all reasonable steps to ensure that any advice it gives to, or any discretionary decision it takes in respect of, a client is suitable for that client.

Adequate resources

10. A financial service provider must maintain adequate financial and non-financial resources.

Contingency plans

11. A financial service provider must have contingency plans for the orderly and solvent winding down of its business.

Dealings with regulators

12. A financial service provider must deal with its regulators in an open, co-operative and timely way and disclose to them any matter of which they would reasonably expect notice.

Governance consistent with core principles

13. A financial service provider must ensure that its governance is consistent with compliance with principles 1 to 12.

Application to DLT Providers.

6A. The core principles apply to a DLT provider as they apply to other financial services providers but, in the event of any conflict between a core principle and the regulatory principles in the Schedule to the Financial Services (Distributed Ledger Technology Providers) Regulations 2020, the latter principles are to prevail.

Specific requirements consistent with core principles

Operational security requirements.

6B.(1) Principles 2, 3 and 10 impose obligations on financial services providers in respect of the effective business management and control, the exercise of due skill, care and diligence and the need to have adequate resources.

(2) Consistent with those principles, a financial services provider must take appropriate and proportionate technical and organisational measures to manage the risks posed to the security of network and information systems which it uses in its operations.

(3) A financial services provider must take appropriate and proportionate measures to prevent and minimise the impact of incidents affecting the security of the network and information systems used for the provision of services, with a view to ensuring the continuity of those services.

(4) The measures taken by a financial services provider under sub-regulation (2) must, having regard to the state of the art, ensure a level of security of network and information systems appropriate to the risk posed.

(5) The GFSC may issue guidance on the security of networks and information systems, to which a financial services provider must have regard in complying with the obligations imposed by sub-regulations (2) and (3).

Notification of material operational incidents.

6C.(1) Principle 12 requires a financial services provider to deal with the GFSC in an open, cooperative and timely way and to disclose to the GFSC any matter of which it would reasonably expect notice.

(2) Consistent with that principle, a financial services provider must notify the GFSC of any material operational incident.

(3) A “material operational incident” means an incident which has a material impact on the continuity of the services provided by a financial services provider and which—

- (a) results in–
 - (i) a significant loss of data;
 - (ii) the unavailability or loss of control of the provider’s IT systems; or
 - (iii) unauthorised access to the provider’s information systems; or
 - (b) affects a large number of customers.
- (4) A notification under sub-regulation (2) must be provided to the GFSC–
- (a) without undue delay as soon as the financial services provider is aware that a material operational incident has occurred; and
 - (b) in the form and manner that the GFSC determines, which must include–
 - (i) the name of the financial services provider;
 - (ii) the services affected;
 - (iii) the time and duration of the incident; and
 - (iv) information concerning the nature and impact of the NIS incident, including any, or any likely, cross-border impact.
- (5) The GFSC may issue guidance on determining whether an incident is a material operational incident, to which a financial services provider must have regard in complying with sub-regulation (2).
- (6) The GFSC, acting on the basis of information in a notification under sub-regulation (2), may inform the relevant authorities in a country or territory outside of Gibraltar of a material operational incident if the GFSC considers that the incident has a significant impact on the continuity of services provided in that jurisdiction.
- (7) Following receipt of a notification under sub-regulation (2), the GFSC may–
- (a) inform the financial services provider concerned about any relevant information that relates to the incident, including how it has been followed up, in order to assist the provider to deal with the incident more effectively or prevent a future incident; and

- (b) subject to sub-regulation (8), inform the public about the incident, as soon as reasonably practicable, if the GFSC considers that public awareness is necessary in order to deal with the incident or prevent a future incident.

(8) The GFSC must consult the financial services provider concerned before informing the public about an incident under sub-regulation (7) if–

- (a) information is confidential; or
- (b) sharing the information may prejudice the security or commercial interests of a financial services provider.

PART 3 CONSUMER DUTY

Compliance with consumer duty.

7.(1) A specified provider must comply with the consumer duty when providing services or conducting business in respect of which the provider is regulated by or under the Act.

(2) The obligation to comply with sub-regulation (1) applies–

- (a) in the case of a financial service provider (other than a DLT provider) which carries on regulated activity in the United Kingdom (whether by virtue of a market access right or otherwise)–
 - (i) in respect of retail customers in the United Kingdom, from the date these Regulations comes into operation; and
 - (ii) in respect of all other retail customers, from such date as the Minister may appoint by notice in the Gazette; and
- (b) in the case of any other financial service provider, from such date as the Minister may appoint by notice in the Gazette.

(3) In these Regulations, a financial service provider is a “specified provider” from the date and to the extent that the consumer duty applies to the provider under sub-regulation (2).

(4) The Minister may appoint–

- (a) different days for the purposes of sub-regulation (2)(a)(ii) and (b); and

(b) in the case of sub-regulation (2)(b), different days for different categories of financial service provider.

(5) In sub-regulation (2)(a), a “market access right” means a deemed passporting right provided under the Financial Services (Passport Rights and Transitional Provisions) (EU Exit) Regulations 2020 and the corresponding law of the United Kingdom.

Consumer duty.

8.(1) In these Regulations, the “consumer duty” means the duty of specified providers to act to deliver good outcomes for retail customers, in particular, by–

- (a) acting in good faith towards retail customers;
- (b) avoiding causing foreseeable harm to retail customers; and
- (c) enabling and supporting retail customers to pursue their financial objectives.

(2) For the purposes of sub-regulation (1), “acting in good faith” requires a specified provider to adopt a standard of conduct characterised by honesty, fair and open dealing and acting consistently with the reasonable expectations of retail customers.

(3) The obligation to avoid causing foreseeable harm does not apply to any harm which may arise from risks which are inherent in a product or service, where the specified provider reasonably believes the retail customer understands and accepts those risks.

(4) The consumer duty applies to all specified providers involved in the manufacture, distribution or provision of products or services to retail customers, irrespective of whether the retail customer is a client of the specified provider, but the duty does not apply in circumstances where a specified provider’s role means it is unable to determine or materially influence outcomes for a retail customer in connection with the product or service.

(5) The consumer duty does not change the nature of a specified provider’s relationship with a retail customer and, in particular, it does not–

- (a) create a fiduciary relationship where one would not otherwise exist; or
- (b) require a specified provider to provide advice or carry out any other regulated activity where it would not otherwise have done so.

(6) The consumer duty supplements the core principles but, in circumstances where the consumer duty applies but conflicts with principle 6 or 7, that principle does not apply.

(7) The Schedule—

- (a) makes further provision in respect of specific outcomes for retail customers which form part of the consumer duty; and
- (b) contains additional provisions in respect to the consumer duty.

Retail customers.

9.(1) In these Regulations “retail customer” means an individual who is acting for purposes which are outside the individual’s trade, business or profession, and includes a prospective retail customer.

(2) Without limiting sub-regulation (1), in relation to the activities of the following specified providers, references to a “retail customer” also include—

- (a) in the case of credit institutions, payment service providers or e-money providers—
 - (i) a micro-enterprise;
 - (ii) a charity with an annual income of less than £1 million; or
 - (iii) an individual acting in the capacity of trustee for purposes outside of the individual’s trade, business or profession;
- (b) in the case of insurance undertakings, a policyholder or prospective policyholder (other than in relation to an excluded policy);
- (c) in the case of investment firms, a customer who is not a professional client;
- (d) in the case of specified providers which manage UCITS, AIFs or establish, operate or wind up collective investment schemes, a unitholder, AIF investors or the beneficial owner of units or shares in a fund (other than a person who is or would be a professional client);
- (e) in the case of personal pensions, a member who is not a professional client; or
- (f) in the case of occupational pension schemes, any person who is or would be a beneficiary in relation to investments held in the scheme.

(3) In sub-regulation (2)–

“excluded policy” means–

- (a) a contract of reinsurance;
- (b) an insurance product in respect of risks located outside Gibraltar or the United Kingdom which is–
 - (i) a specialist risks contract; or
 - (ii) a general insurance contract (other than a specialist risks contract) distributed to large commercial customers;
- (c) activities connected to the distribution of group insurance policies or the extension of those policies to new members;

“micro-enterprise” means an enterprise which–

- (a) employs fewer than ten persons; and
- (b) has a turnover or annual balance sheet that does not exceed €2 million; and

“professional client” means a client that meets the criteria in Schedule 1 to the Financial Services (Investment Services) Regulations 2020.

(4) In relation to a specified provider which is involved in a distribution chain, references to a “retail customer” includes a person who is not a direct client of the specified provider but who is, or would be, a retail customer at the end of that distribution chain.

(5) In paragraph (3)(b) “specialist risks contract” and “large commercial customer” have the meaning given in regulation 2(1) of the Financial Services (Insurance Distribution) Regulations 2020.

Regulatory oversight.

10. The GFSC, in determining whether a specified provider is complying or has complied with the consumer duty–

- (a) must consider whether the specified provider has acted in accordance with the standard reasonably expected of a prudent specified provider–

- (i) carrying on the same activity in respect of the same product or service; and
 - (ii) taking appropriate account of the needs and characteristics of retail customers in the relevant target market or of individual retail customers (as the context requires); and
- (b) must not disregard the principle in paragraph 5(f) of the regulatory objectives in Schedule 5 to the Act, that consumers should take responsibility for their decisions.

Obligation to notify GFSC.

11. A specified provider in a distribution chain must notify the GFSC if it becomes aware that any other specified provider in that distribution chain is not or may not be complying with the consumer duty.

**PART 4
REVOCATION**

Revocation of 2022 Regulations.

12. The Financial Services (Core Principles) Regulations 2022 are revoked.

2019-26

Financial Services

2024/077 **Financial Services (Core Principles and Consumer Duty)
Regulations 2024**

SCHEDULE

RETAIL CUSTOMER OUTCOMES

Regulation 8(7)

**PART 1
PRELIMINARY**

Overview of Schedule.

1.(1) Parts 2 to 5 of this Schedule set out the following outcomes for retail customers which form part of the consumer duty–

- (a) the products and services outcome;
 - (b) the price and value outcome;
 - (c) the consumer understanding outcome; and
 - (d) the consumer support outcome.
- (2) Part 6 sets out further provisions relating to governance, monitoring and redress.
- (3) Part 7 sets out how the consumer duty applies in the case of product book purchases.
- (4) Part 8 contains transitional provisions.
- (4A) Part 2 does not apply to bespoke contracts.
- (5) Parts 2 and 3 do not apply in relation to a non-investment insurance product or legacy non-investment insurance product that a specified provider manufactures or distributes and in respect of which the specified provider is required to comply with the Technical Standards set out in the Annex to the Financial Services (Insurance Product Oversight and Governance) (Technical Standards) Regulations 2024.

Interpretation of Schedule.

2.(1) In this Schedule–

“appointed day” means the day appointed by the Minister by notice in the Gazette;

“closed product” means a product–

- (a) in respect to which there are subsisting contracts with retail customers that were entered into before the appointed day; and
- (b) which is not marketed or made available to retail customers (including by way of renewal) on or after the appointed day;

“distributor” means a specified provider which–

- (a) offers, recommends or sells relevant investments or provides investment services to clients;
- (b) advises on or proposes relevant investments which it does not manufacture;
- (c) offers, recommends, sells, advises on, arranges, deals, proposes or provides a product;

“existing product” means a product which–

- (a) was manufactured, marketed or distributed before the appointed day; and
- (b) is marketed or distributed to retail customers (including by way of renewal) on or after the appointed day;

“manufacturer” means a specified provider which creates, develops, issues or designs a relevant investment;

“product” means–

- (a) any relevant investment distributed or to be distributed to retail customers; or
- (b) any service–
 - (i) which involves or includes carrying on a regulated activity or an ancillary activity; and
 - (ii) which is provided–
 - (aa) directly to a retail customer;
 - (bb) by a specified provider to another specified provider (under an arrangement between them) for the purpose of enabling the other

specified provider to distribute a relevant investment to a retail customer or provide a regulated activity directly to a retail customer; or

- (cc) by a specified provider to another entity (under an arrangement between them) to enable that entity to operate or procure performance of the terms of a relevant investment that has been distributed to a retail customer;

“relevant investment” means any of the following items identified in Schedule 2 to the Act–

- (a) deposits;
- (b) electronic money;
- (c) contracts of insurance;
- (d) financial instruments;
- (e) UCITS and AIFs;
- (f) personal pension schemes; and
- (g) credit agreements in connection with residential immovable property; and

“target market” means one or more groups of retail customers who share common features and whose needs, characteristics and objectives the product is designed to meet, as identified by the manufacturer in accordance with paragraph 3(2).

(2) In this Schedule, references to “characteristics of vulnerability” are to the following characteristics which may increase an individual’s susceptibility to harm, particularly if a specified provider is not acting with appropriate care–

- (a) health: any illness or condition that affects an individual’s ability to carry out daily tasks;
- (b) life events: bereavement, job loss, retirement or similar events;
- (c) resilience: a reduced ability to withstand financial or emotional shock; and
- (d) capability: low confidence, particularly in managing money or financial matters and including low capability in literacy and numeracy.

PART 2
PRODUCTS AND SERVICES OUTCOME

Manufacturers product approval procedures.

3.(1) A manufacturer must maintain, operate and review a procedure for the approval, before it is marketed or distributed to retail customers, of–

- (a) any product; and
 - (b) any significant adaptation of a product.
- (2) A manufacturer’s product approval procedure must–
- (a) specify the target market for the product in sufficient detail, taking account of the characteristics, risk profile, complexity and nature of the product;
 - (b) take account of any particular additional or different needs, characteristics and objectives that may be relevant for retail customers in the target market with characteristics of vulnerability;
 - (c) ensure that all relevant risks to the target market are assessed, including any relevant risks to retail customers with characteristics of vulnerability;
 - (d) ensure that the design of the product–
 - (i) meets the needs, characteristics and objectives of the target market;
 - (ii) does not adversely affect groups of retail customers in the target market, including groups of retail customers with characteristics of vulnerability; and
 - (iii) avoids causing foreseeable harm in the target market;
 - (e) ensure that the intended distribution strategy is appropriate for the target market; and
 - (f) require the manufacturer to take all reasonable steps to ensure that the product is distributed to the identified target market.

Approval of closed products.

4.(1) A manufacturer of a closed product must maintain, operate and review a process to assess and regularly review whether any aspect of the product results in the manufacturer not complying with the consumer duty in relation to existing retail customers.

(2) The manufacturer's process must also assess and regularly review whether the closed product affects groups of retail customers in different ways and in particular whether any retail customers in the target market with characteristics of vulnerability are adversely affected by any aspect of the product.

(3) A manufacturer's process under this paragraph (1) does not need to comply with paragraphs 3, 5(1), 6, 7 or 8.

Product review by manufacturers.

5.(1) A manufacturer must regularly review its products, taking into account any event that could materially affect the potential risk to the target market, and in doing so must assess whether—

- (a) the product meets the identified needs, characteristics and objectives of the target market, including identified needs, characteristics and objectives of retail customers in the target market with characteristics of vulnerability; and
- (b) the intended distribution strategy remains appropriate, including whether the product is being distributed to the target market or reaching retail customers outside the target market.

(2) Where, following a review, a manufacturer identifies any circumstances related to a product that may adversely affect retail customers, the manufacturer must—

- (a) take appropriate steps to mitigate the situation and prevent any further harm; and
- (b) where appropriate, promptly inform other relevant persons in the distribution chain about the steps taken and the circumstances that led to them being taken.

Product testing by manufacturers.

6.(1) A manufacturer must test its products appropriately, including conducting scenario analyses where relevant.

(2) A manufacturer must test its products in a qualitative manner and, where appropriate (having regard to the type and nature of the product and the related risk of detriment to retail customers) in a quantitative manner.

(3) In discharging its obligations under sub-paragraph (1), a manufacturer must assess whether the product meets the identified needs, characteristics and objectives of the target market, including identified needs, characteristics and objectives of retail customers in the target market with characteristics of vulnerability.

(4) If testing shows that a product does not meet the requirements in sub-paragraph (3)–

(a) in the case of a new product or a significant adaptation of an existing product, the manufacturer must not bring the new or adapted product to the market;

(b) in the case of an existing product, the manufacturer must immediately–

(i) cease marketing or distributing the product (whether directly or indirectly);

(ii) cease any renewals for existing retail customers, where those customers are easily able to move to an alternative product that provides at least the same level of benefit at an equivalent cost to the customer (whether with the same or another provider); and

(iii) where it intends to continue to market and distribute the product, make such changes as are necessary for the product to meet the identified needs, characteristics and objectives of the target market, including identified needs, characteristics and objectives of any group or groups of retail customers in the target market with characteristics of vulnerability.

Collaborative manufacturing.

7. Where specified providers collaborate to manufacture a product, they must set out in a written agreement their respective roles and responsibilities in the product approval process under this Part.

Manufacturers distribution arrangements.

8.(1) A manufacturer must–

(a) select distribution channels that are appropriate for the target market; and

- (b) provide each distributor with adequate information in good time to enable it to comply with the applicable provisions of this Part.

(2) The information to be made available under sub-paragraph (1)(b) includes all appropriate information regarding the product and the product approval process to enable the distributor to comply with paragraph 10.

Distributors distribution arrangements.

9.(1) A distributor must maintain, operate and review product distribution arrangements for each product it distributes that–

- (a) avoid causing or, where that is not practical, mitigate foreseeable harm to retail customers;
- (b) support the proper management of conflicts of interest; and
- (c) ensure the needs, characteristics and objectives of the target market are duly taken into account.

(2) Where a distributor distributes a product manufactured by a manufacturer to which this Part does not apply, the distributor must take all reasonable steps to comply with paragraphs 10 to 13.

Distributors: obtaining information from manufacturers.

10. A distributor must ensure that its product distribution arrangements include effective procedures to obtain sufficient, adequate and reliable information from the manufacturer about any product to–

- (a) understand the characteristics of the product;
- (b) understand the identified target market;
- (c) consider the needs, characteristics and objectives of any retail customers in the target market with characteristics of vulnerability;
- (d) identify the intended distribution strategy for the product; and
- (e) ensure the product will be distributed in accordance with the needs, characteristics and objectives of the target market.

Distributors: specific distribution strategies.

11. Where a distributor sets up or implements a specific distribution strategy to supplement the manufacturer's strategy under paragraph 3(2)(e), the distributor's strategy must be consistent with–

- (a) the manufacturer's distribution strategy; and
- (b) the identified target market.

Distributors: sales information for manufacturers.

12. A distributor must provide manufacturers, on request, with relevant information to support product reviews carried out by manufacturers, including, where appropriate, sales information and information on the distributor's reviews of the product distribution arrangements.

Distribution review by distributors.

13.(1) A distributor must regularly review its distribution arrangements to ensure that they are appropriate and up to date.

(2) When reviewing the distribution arrangements, a distributor must verify that it is only distributing each product to the identified target market.

(3) Where a distributor identifies an issue following a review, it must–

- (a) make appropriate amendments to the product distribution arrangements;
- (b) where harm has been identified, take appropriate action to mitigate it and prevent any further harm; and
- (c) promptly inform all relevant persons in the distribution chain about any action taken.

**PART 3
PRICE AND VALUE OUTCOME**

Price and value.

14. For the purposes of this Part–

- (a) “value” is the relationship between the amount paid by a retail customer for the product and the benefits the retail customer can reasonably expect to get from the product; and
- (b) a product provides fair value where the amount paid for the product is reasonable relative to the benefits of the product.

Manufacturers’ price and value obligation.

15.(1) A manufacturer must–

- (a) ensure that its products provide fair value to retail customers in the target markets for those products; and
- (b) carry out a value assessment of its products and review that assessment on a regular basis appropriate to the nature and duration of the product.

(2) An initial value assessment must be carried out, before it is marketed or distributed to retail customers, for–

- (a) any product; and
- (b) any significant adaptation of a product.

(3) In ensuring that a product provides fair value, a manufacturer must be satisfied that this will be the case from the point at which the manufacturer completes the assessment for a reasonably foreseeable period, including, where the product is one that renews, following renewal.

(4) The obligation to ensure that a product provides fair value extends to closed products but, in the case of a closed product, the reference to target markets in sub-paragraph (1) is to be read as a reference to the retail customers who are customers of the closed product.

Value assessment.

16.(1) A manufacturer’s assessment of whether a product provides fair value must include (but is not limited to) consideration of the following–

- (a) the nature of the product, including the benefits that will be provided or may be reasonably expected and its quality;
- (b) any limitations that are part of the product;

- (c) the expected total price to be paid by the retail customer or that may become due from the retail customer;
 - (d) any characteristics of vulnerability that retail customers in the target market display and the impact these characteristics have on the likelihood that retail customers may not receive fair value from its products.
- (2) For the purposes of sub-paragraph (1)(c), the expected total price includes–
- (a) the price paid or agreed to be paid by the retail customer on entering into a contract for the product, including by way of repayments;
 - (b) any regular charges or fees payable over the lifetime of the product, such as an annual management charge;
 - (c) any contingent fees or charges, such as administrative charges for changes of address, charges for falling into arrears on a loan, or charges for transferring investments; and
 - (d) any non-financial costs the retail customer is asked or required to meet.

Packaged products.

17. Where a product is intended to be packaged with one or more other products, the manufacturer must ensure that fair value to retail customers in the target market is provided by–

- (a) each product in the package; and
- (b) the package as a whole.

Collaborative manufacturing.

18.(1) Where specified providers collaborate to manufacture a product, they must set out in a written agreement their respective roles and responsibilities in the value assessment under this Part.

(2) Where a specified provider collaborates with a person who is not a specified provider to manufacture a product, the specified provider remains fully responsible for discharging all its obligations under this Part.

Manufacturers: information for distributors.

19. The manufacturer of a product must ensure that distributors distributing the product have all necessary information to understand the value that the product is intended to provide to a retail customer.

Distributors' price and value obligation.

20.(1) A distributor must not distribute a product unless its distribution arrangements are consistent with the product providing fair value to retail customers.

(2) Arrangements are consistent with providing fair value to retail customers if they enable the distributor to obtain enough information from the manufacturer to understand the outcome of the value assessment and, in particular, to identify–

- (a) the benefits the product is intended to provide to a retail customer;
- (b) the characteristics, objectives and needs of the target market;
- (c) the interaction between the price paid by the retail customer and the extent and quality of any services provided by the distributor; and
- (d) whether the impact of the distribution arrangements (including any remuneration the distributor, or (so far as it is aware) any other person in the distribution chain, receives) would result in the product ceasing to provide fair value to retail customers.

(3) Where a distributor distributes a product manufactured by a manufacturer to which this Part does not apply, the distributor must take all reasonable steps to comply with subparagraphs (1) and (2).

Distribution chains.

21.(1) A distributor 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.

(2) A distributor which distributes products to other distributors must ensure that all information relevant to the value assessment is passed to the distributor at the end of the distribution chain.

(3) A distributor which distributes products to other specified providers in the distribution chain must consider whether it is also a co-manufacturer of the product it is distributing and if so, comply with the provisions of this Part which apply to manufacturers.

Fair value assessment: manufacturers and distributors.

22.(1) A manufacturer must consider the fair value assessment at every stage of the product approval process, including, in particular, when–

- (a) designing the product;
- (b) identifying retail customers in the target market for whom the product needs to provide fair value; and
- (c) selecting distribution methods or channels.

(2) A distributor must consider the fair value assessment when determining the distribution strategy for a product and, in particular, where the product is to be distributed with another product whether as part of a package or not.

Fair value assessment: general.

23. In determining whether a product provides fair value, or distribution arrangements are consistent with fair value being provided, a specified provider must not rely on individual retail customers to consider whether they believe the product provides fair value in place of its own assessment.

Reviewing fair value assessments.

24.(1) A manufacturer must regularly review the value assessment throughout the life of a product to ensure that the product continues to provide fair value to retail customers in the target market.

(2) Where a manufacturer identifies in its review of its value assessment that a product no longer provides fair value, it must take appropriate action to–

- (a) mitigate, and where appropriate, remediate any harm caused to existing retail customers; and
- (b) prevent harm to new retail customers.

(3) Appropriate action under sub-paragraph (2) includes notifying the distributors of the product of the issue and of any changes to the product and the distribution strategy that the manufacturer has put place to mitigate and prevent further harm.

(4) A distributor must regularly review its distribution arrangements throughout the life of a product to ensure that they remain consistent with the product providing fair value to retail customers in the target market.

(5) Where a distributor identifies that a product no longer provides fair value, whether due to aspects of the product or the distribution arrangements, it must take appropriate action to—

- (a) mitigate the situation and prevent further occurrences of any possible harm to retail customers, including, where appropriate, amending the distribution strategy for that product (and, where relevant, the package);
- (b) redress any foreseeable harm that has been caused to retail customers by faults in the distributor’s distribution arrangements; and
- (c) inform any relevant manufacturers and other distributors in the chain promptly about any concerns and any action it is taking.

PART 4 CONSUMER UNDERSTANDING OUTCOME

Application of Part 4.

25.(1) Subject to sub-paragraph (2), this Part applies to—

- (a) all specified providers involved in the production, approval or distribution of retail customer communications (including (but not limited to) financial promotions or other advertisements, sales-related communications, and post-sale communications), regardless of whether the specified provider has a direct relationship with a retail customer;
- (b) all communications throughout a specified provider’s interactions with retail customers, including—
 - (i) before, during, and after any sale of a product; and
 - (ii) interactions that do not relate to a specific product; and

- (c) all communications in any form from a specified provider to a retail customer, regardless of the medium used or intended to be used for the communication.

(2) Paragraph 29 applies to all specified providers in relation to their retail market business.

Communications to retail customers.

26.(1) A specified provider must support retail customer understanding by ensuring that its communications—

- (a) meet the information needs of retail customers;
- (b) are likely to be understood by retail customers; and
- (c) equip retail customers to make decisions that are effective, timely and properly informed.

(2) A specified provider must communicate information to retail customers in a manner which is clear, fair and not misleading.

(3) For the purposes of sub-paragraph (1), where a communication is—

- (a) product-specific, the specified provider must consider the target market for that product; or
- (b) not product-specific, the specified provider must consider its retail customers.

(4) For the purposes of sub-paragraph (1)(c), in order to provide information on a timely basis, a specified provider must communicate in good time for retail customers to make effective decisions, including—

- (a) before the purchase of a product; and
- (b) at suitable points throughout the life cycle of the product.

(5) In considering its methods of communicating with retail customers, a specified provider must satisfy itself that the method chosen—

- (a) enables the communication of relevant information which retail customers are likely to need in a way that supports effective decision making; and

- (b) provides an appropriate opportunity for retail customers to review the information and, where relevant, assess their options.
- (6) In supporting the understanding of retail customers, a specified provider must tailor its communications to retail customers, taking into account—
- (a) the characteristics of retail customers, including any characteristics of vulnerability;
 - (b) the complexity of the product;
 - (c) the method used; and
 - (d) the specified provider’s role, including whether it is providing regulated advice or information only.

Interacting with individual retail customers.

27. A specified provider, when it is interacting directly by any means with an individual retail customer, must (where appropriate)—

- (a) tailor the communication to meet the retail customer’s information needs, taking account of any characteristics of vulnerability which the customer may have; and
- (b) confirm that the retail customer understands the information provided and ask if the customer has any further questions, particularly if the information is reasonably regarded as key information, such as where it prompts the retail customer to make a decision.

Testing, monitoring and adapting communications.

28.(1) A specified provider must (where appropriate)—

- (a) test communications before communicating them to retail customers; and
- (b) regularly monitor the impact of communications once they have been communicated,

in order to identify whether the communications are supporting good outcomes for retail customers.

(2) Where, as a result of testing and monitoring, a specified provider identifies an issue with its communications, it must–

- (a) investigate the issue;
- (b) correct any deficiencies by–
 - (i) adapting its communications; and
 - (ii) adapting its products or processes, if it is aware that adapting its communications alone would be insufficient to support good outcomes for retail customers; and
- (c) take any other appropriate remedial action.

(3) Where a specified provider becomes aware that a communication produced by another specified provider in its distribution chain is not delivering good outcomes for retail customers, it must promptly notify the relevant specified provider of the issue.

Information for other specified providers.

29. A specified provider must provide information in good time to another specified provider in the same distribution chain which–

- (a) the other specified provider has requested and reasonably requires so that it can be communicated to retail customers; or
- (b) the specified provider considers the other specified provider may require so that it can be communicated to retail customers.

**PART 5
CONSUMER SUPPORT OUTCOME**

Application of Part 5.

30.(1) Subject to sub-paragraph (3), this Part applies–

- (a) to specified providers which are responsible for interacting directly with, and providing support to, retail customers, such as through their customer services functions, including where a specified provider has outsourced its interactions with retail customers to a third party (in whole or part);

- (b) regardless of the method used or intended to be used when interacting with, or providing support to, retail customers; and
 - (c) to all customer support provided by a specified provider to retail customers, such as in the course of or in connection with providing customer services, including—
 - (i) before, during, and after any sale of a product; and
 - (ii) support that does not relate to a specific product.
- (2) A specified provider must design and deliver support to retail customers so that it—
- (a) meets the needs of retail customers, including those with characteristics of vulnerability;
 - (b) ensures that retail customers can use the product as reasonably anticipated;
 - (c) includes appropriate steps to mitigate the risk of harm and give retail customers sufficient opportunity to understand and assess their options, including any risks; and
 - (d) ensures that retail customers do not face unreasonable barriers (including unreasonable additional costs) during the life cycle of a product, such as when they want to—
 - (i) make general enquiries or requests to the specified provider;
 - (ii) amend or switch the product;
 - (iii) transfer to a different product provider;
 - (iv) access a benefit which the product is intended to provide;
 - (v) submit a claim;
 - (vi) make a complaint; or
 - (vii) cancel a contract, agreement or arrangement or otherwise terminate their relationship with the specified provider.
- (3) Paragraph 32 applies to all specified providers in relation to their retail market business.

Dealing with representatives.

31.(1) A specified provider must provide the same level of support to a person who is authorised by a retail customer or by law to assist in the conduct of the retail customer's affairs as it would provide to the retail customer.

(2) Sub-paragraph (1) does not apply where the person assisting in the conduct of the retail customer's affairs is also a specified provider.

Requests from other specified providers.

32. A specified provider must deal in an effective and timely manner with a reasonable request for assistance from another specified provider, in order to enable the other specified provider to support retail customers.

**PART 6
GOVERNANCE, MONITORING AND REDRESS**

Governance, strategy and policies.

33. A specified provider must ensure that–

- (a) the consumer duty is reflected in its strategies, governance, leadership and personnel policies, including incentives at all levels; and
- (b) retail customer outcomes are appropriately taken into account within the specified provider's risk control and internal audit arrangements.

Governing body report.

34.(1) A specified provider must prepare a report for its governing body setting out the results of its monitoring under paragraph 35 and any actions required as a result of the monitoring.

(2) A specified provider's governing body must at least annually–

- (a) review and approve the specified provider's report on the outcomes being received by retail customers;
- (b) confirm whether it is satisfied that the specified provider is complying with the consumer duty; and

- (c) assess whether the specified provider's future business strategy is consistent with the consumer duty.
- (3) When approving the specified provider's report under sub-paragraph (2)(a), the governing body must also agree–
- (a) any action required to address any identified risk that retail customers may not receive good outcomes;
 - (b) any action required to address any identified instance where retail customers have not received good outcomes; and
 - (c) any amendments to the specified provider's business strategy to ensure that it remains consistent with meeting its obligations under the consumer duty.

Monitoring consumer outcomes.

- 35.(1) A specified provider must regularly monitor the outcomes retail customers receive from–
- (a) the products it manufactures or distributes;
 - (b) the communications it has with retail customers; and
 - (c) the customer support it provides to retail customers.
- (2) The monitoring carried out by a specified provider must enable it to determine whether–
- (a) retail customers are being, or have been, sold products that have been designed to meet their needs, characteristics and objectives;
 - (b) the products that retail customers purchase provide fair value and appropriate action has been taken to address products identified as not providing fair value;
 - (c) retail customers are equipped with the right information to make effective, timely and properly informed decisions; and
 - (d) retail customers receive the support they need.
- (3) The specified provider's monitoring must also enable it to identify whether–
- (a) it is complying with the consumer duty;

- (b) for any product it manufactures or distributes, any group of retail customers is experiencing different outcomes compared to another group of retail customers of the same product; and
- (c) any retail customers have suffered harm as a result of its acts or omissions.

Action required of specified providers.

36.(1) A specified provider must have in place processes to identify the root causes of any failure to deliver the outcomes in paragraph 35(2).

- (2) A specified provider must take appropriate remedial action if it finds that—
 - (a) retail customers are not receiving the outcomes in paragraph 35(2) or there is a risk that they will not do so;
 - (b) any group of retail customers is receiving worse outcomes than another group of retail customers for the same product; or
 - (c) it is not complying with the consumer duty.

Redress for foreseeable harm.

37.(1) If a specified provider finds that retail customers have suffered foreseeable harm as a result of its acts or omissions, it must act in good faith and take appropriate action to rectify the situation, including providing redress where appropriate.

- (2) A specified provider, once foreseeable harm has been found, must—
 - (a) investigate the circumstances which led to the foreseeable harm and obtain any necessary additional information;
 - (b) taking account of all relevant factors, assess—
 - (i) the subject matter of the foreseeable harm;
 - (ii) what remedial action or redress (or both) may be appropriate;
 - (ii) if appropriate, whether it has reasonable grounds to be satisfied that another specified provider may be solely or jointly responsible for causing the foreseeable harm;

- (c) offer redress or remedial action when it decides this is appropriate;
 - (d) explain to the retail customer promptly and in a manner that is fair, clear and not misleading that harm has been identified, its assessment of the harm, its decision as to what action is appropriate and the retail customer's right to make a complaint if it is not satisfied with that decision;
 - (e) comply promptly with any offer of remedial action or redress accepted by the retail customer.
- (3) A specified provider must undertake the steps in sub-paragraph (2) promptly, diligently and impartially and assess any appropriate redress or remedial action in a fair and consistent manner.
- (4) Where a specified provider identifies that a retail customer has suffered foreseeable harm but concludes that another specified provider in the distribution chain was responsible for that harm (whether solely or jointly), it must promptly notify the other specified provider and provide it with appropriate information about that harm.

Vested rights.

38. Where a specified provider finds that a retail customer has suffered foreseeable harm arising from—

- (a) a closed product held by the customer; or
- (b) an existing product held by the customer before the appointed day,

unless the specified provider has identified a breach of requirements in existence before that date, the appropriate action it must take under paragraph 37 does not require it to waive any vested rights under the contract for that product.

**PART 7
APPLICATION TO PRODUCT BOOK PURCHASES**

Sale and purchase of product books.

39.(1) This paragraph applies where a specified provider purchases or has purchased a product book from another specified provider which sells a product book.

(2) Where the product book was purchased before the appointed day, the purchasing specified provider must—

- (a) comply with the consumer duty in respect of the product book if the specified provider—
 - (i) was a co-manufacturer of the product; or
 - (ii) has significantly adapted the product on or after the appointed day; or
- (b) use its best endeavours to comply with the consumer duty in respect of the product book if paragraph (a) does not apply.

(3) Sub paragraphs (4) to (6) apply where a product book is sold for the first time after the appointed day.

(4) The specified provider selling the product book must provide relevant information to the purchasing specified provider to enable it to comply with the consumer duty in respect of the product book from the date of purchase.

(5) A specified provider which purchases a product book after the appointed day must carry out sufficient due diligence to ensure it understands, in particular—

- (a) whether any group of retail customers of the product—
 - (i) have characteristics of vulnerability; or
 - (ii) are within the same equal opportunities category (within the meaning of section 3(2) of the Equal Opportunities Act 2006);
- (b) the outcome of the selling specified provider’s product approval process for the product book and the outcome of any product reviews carried out under Part 2;
- (c) the benefits the product is intended to provide and the costs the retail customer pays for the product; and
- (d) the basis on which the product has been assessed as providing fair value under Part 3.

(6) The due diligence conducted by the purchasing specified provider must be sufficient to enable it to comply with the consumer duty in respect of the product book.

(7) Where a specified provider purchases a product book after the appointed day and the first sale of that product book took place before that date, sub-paragraph (2) applies.

**PART 8
TRANSITIONAL PROVISIONS**

Transitional provision: closed products.

40.(1) Subject to sub-paragraph (2), the consumer duty only applies to a closed product—

- (a) in the case of a specified provider to which regulation 7(2)(a)(i) applies, from 31st July 2024; and
- (b) in the case of any other specified provider, from such date as the Minister may appoint by notice in the Gazette.

(2) The manufacturer of a closed product must review the product by 31st July 2024 to ensure it meets the requirements of Parts 2 and 3 of this Schedule and take any appropriate mitigating action required under those Parts.

Transitional provision: book of closed products.

41.(1) Where a specified provider proposes to sell a book of closed products during the year beginning on the relevant day for that provider to another specified provider—

- (a) the purchasing specified provider is only required to comply with the consumer duty in respect of the book of closed products from the relevant day for that provider; and
- (b) the selling specified provider—
 - (i) is not required to provide the purchaser with the information specified in paragraph 39(5)(b) and (d); but
 - (ii) must provide the purchaser with relevant information to enable it to comply with the consumer duty in respect of the book of closed products from that provider's relevant day.

(2) In sub-paragraph (1) the “relevant day” means—

- (a) in the case of a specified provider to which regulation 7(2)(a)(i) applies, 31st July 2024; and

- (b) in the case of any other specified provider, the date appointed under paragraph 40(1)(b) which applies to that specified provider.