Chapter 2A

The Consumer Duty

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2A.4 Consumer Duty: retail customer outcome on price and value

What is value?

2A.4.1 R For the purposes of this outcome:

(1) value is the relationship between the amount paid by a *retail customer* for the *product* and the benefits they can reasonably expect to get from the *product*; and

(2) a *product* provides fair value where the amount paid for the *product* is reasonable relative to the benefits of the *product*.

Price and value: manufacturers general obligation

2A.4.2 R A *manufacturer* must:

(1) ensure that its *products* provide fair value to *retail customers* in the *target markets* for those *products*; and

(2) 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*.

2A.4.3 R An initial value assessment must be carried out for:

(1) a *product*; and

(2) any significant adaptation of a *product*,

in each case before it is marketed or *distributed* to a *retail customer*.

2A.4.4 G PRIN 2A.4.2R and PRIN 2A.4.3R include any *product* whether a new *product* manufactured on or after 31 July 2023, an *existing product* or a *closed product*. In relation to an existing product or a closed product, "marketing" or "distributing" includes reference to any future activity regardless of whether the *product* has previously been made available for marketing or distribution.

2A.4.5 R 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.

2A.4.6 **G** What constitutes a 'reasonably foreseeable period' will depend on the type of *product*. This could include the expected length of time a *retail customer* in the *target market* will keep it, including, where relevant, the number of occasions the *firm* would reasonably expect that a *retail customer* would renew the *product*.

Product packages

2A.4.7 **R** Where a *product* is intended to be provided with one or more other *products*, a *manufacturer* must ensure that:

(1) each component *product*; and

(2) the package as a whole,

provides fair value to *retail customers* in the *target market*.

The value assessment

2A.4.8 **R** A *manufacturer's* assessment of whether or not a *product* provides fair value must include (but is not limited to) consideration of the following:

(1) the nature of the *product*, including the benefits that will be provided or may be reasonably expected and its quality;

(2) any limitations that are part of the *product*;

(3) the expected total price to be paid by the *retail customer* or that may become due from the *retail customer*. 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*, for example an annual management charge;

  (c) any contingent fees or charges, for example, 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 provide to the *firm*; and

(4) 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*.

Guidance on the value assessment: factors that may be considered

2A.4.9 **G** A *manufacturer* may consider one or more of the following in its assessment of whether or not a *product* is providing fair value:

(1) the costs incurred by the *firm* in *manufacturing* or *distributing* the *product*;

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(2) the market rate and charges for a comparable *product*;

(3) any accrued costs and/or benefits for *existing* or *closed products*; and

(4) whether there are any *products* that are priced significantly lower for a similar or better benefit.

Guidance on the value assessment: benefits and costs

2A.4.10 G (1) The types of benefits that *retail customers* may reasonably expect to obtain may include non-financial benefits such as an enhanced level of customer service providing extra assistance to *retail customers* in using the *product*.

(2) Examples of non-financial costs include the provision of personal data and the granting of permission to use that data.

Guidance on the value assessment: characteristics of retail customers

2A.4.11 G In considering the value assessment and how it applies when *manufacturers* have different groups of *retail customer* in their target market for a *product*, they should have regard in particular to the following:

(1) whether any *retail customers* who have characteristics of vulnerability may be less likely to receive fair value; and

(2) whether the *product* provides fair value for each of the different groups of *retail customer* in the *target market*, including in circumstances where the pricing structure of the *product* involves different prices being charged to different groups of *retail customers*.

Guidance on the value assessment: interaction with the Duty and the retail customer outcomes

2A.4.12 G In ensuring that a *product* provides fair value, a *manufacturer* should have regard to how the cross-cutting obligations (PRIN 2A.2) and the other *retail customer* outcome *rules* (PRIN 2A.3 to PRIN 2A.6) are met in respect of the *product*.

Manufacturers: collaboration with another firm or with unregulated persons

2A.4.13 R Where *firms* collaborate to *manufacture* a *product*, they must set out in a written agreement their respective roles and responsibilities in the value assessment in PRIN 2A.4.

2A.4.14 R Where a *firm* collaborates with a *person* who is not a *firm* to *manufacture* a *product*, it remains fully responsible for discharging all its obligations under PRIN 2A.4.

Manufacturers: information for distributors

2A.4.15 R The *manufacturer* of a *product* must ensure that *firms distributing* the product have all necessary information to understand the value that the *product* is intended to provide to a *retail customer*.

Price and value: distributors general obligation

2A.4.16 R

(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 will be consistent with providing fair value to *retail customers* where 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 that the *distribution* arrangements (including any remuneration it or (so far as the *distributor* is aware of it) another person in the distribution chain receives) would result in the *product* ceasing to provide fair value to *retail customers*.

Distributors: unregulated manufacturer

2A.4.17 R Where a *distributor distributes* a *product manufactured* by a *person* to whom the *rules* in PRIN 2A.4 do not apply, it must take all reasonable steps to comply with PRIN 2A.4.16R.

Distribution chains

2A.4.18 R

(1) A *firm* which *distributes products* to *retail customers* 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 *firm* 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 *firm* which *distributes products* to other firms in the distribution chain must consider whether they are also a *co-manufacturer* of the product they are *distributing* and if they are, apply the *manufacturer rules* in this section.

When must a manufacturer and a distributor consider the value assessment?

2A.4.19 R *Manufacturers* and *distributors* are responsible for the value assessment as follows:

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(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 distributions methods/channels.

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

The value assessment: general

2A.4.20 R In determining whether a *product* provides fair value, or distribution arrangements are consistent with fair value being provided, a *firm* must not rely on individual *retail customers* to consider whether they believe the *product* provides fair value in place of the *firm's* own assessment.

Closed products

2A.4.21 R (1) The obligation on *manufacturers* in PRIN 2A.4.2R to ensure that a product provides fair value applies to *closed products* as well as new and *existing products*.

(2) In the case of a *closed product*, the reference to a *target market* in PRIN 2A.4.2R should be read as referring to the *retail customers* who are *customers* of the *closed product*.

Guidance on the value assessment: closed and existing products

2A.4.22 G The assessment of whether a *closed product* or an *existing product* provides fair value should be on a forward-looking basis only. Unless required to do so by any other *rule*, *manufacturers* do not need to consider whether their *closed products* or *existing products* provided fair value prior to these *rules* coming into force.

2A.4.23 G In assessing whether a *closed product* or an *existing product* provides fair value, a *manufacturer* may take into account the benefits provided, the costs charged to the *retail customer* and the costs incurred by the *firm* prior to these *rules* coming into effect.

[**Note**: See also PRIN 2A.4.29R regarding appropriate action for *closed products* if the *product* no longer provides fair value.]

Reviewing the value assessment

2A.4.24 R (1) A *manufacturer* must regularly review the value assessment throughout the life of the *product* to ensure that the *product* continues to provide fair value to *retail customers* in the *target market*.

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

2A.4.25 R Where a *manufacturer* identifies in its review of its value assessment that the *product* no longer provides fair value, it must take appropriate action to:

(1) mitigate, and where appropriate, remediate any harm caused to existing *retail customers*; and

(2) prevent harm to new *retail customers*.

2A.4.26 R Appropriate action under PRIN 2A.4.25R includes notifying the *distributor(s)* 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.

2A.4.27 R Where a *distributor* identifies that the *product* no longer provides fair value, whether that is due to aspects of the *product* or the distribution arrangements, it must take appropriate action to:

(1) 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);

(2) redress any foreseeable harm that has been caused to *retail customers* by faults in the *distributor's* distribution arrangements; and

(3) inform any relevant *manufacturers* and other *distributors* in the chain promptly about any concerns they have and any action the *distributor* is taking.

2A.4.28 G The appropriate action that a *distributor* may need to take under PRIN 2A.4.27R will depend on the role the *distributor* has in the distribution chain and in relation to the *product* being *distributed*. A *distributor* who is a co-*manufacturer* of the *product* being *distributed* is likely to be able to do more to mitigate the situation than *distributors* who are not *co-manufacturers*.

Vested rights

2A.4.29 R In the case of a *closed product*, or an *existing product* held by a *retail customer* before 31 July 2023, unless the *firm* has identified a breach of *rules* in existence before 31 July 2023, the appropriate action a *firm* may take does not require a *firm* to waive its vested contractual rights.

2A.4.30 G For the purposes of PRIN 2A.4.29R, vested contractual rights include the following:

(1) payments already due under the terms of the contract;

(2) remuneration for services wholly or partly provided under the contract; and

(3) contractual charges payable on early termination of the contract.

2A.4.31 G Whether a right is a vested right or not will depend on all the facts of the case and interpretation of the relevant contract.

Application of the price and value outcome

2A.4.32 R (1) The *rules* in PRIN 2A.4 do not apply to:

(a) a *firm* which *manufactures* or *distributes* a *non-investment insurance product* or a *legacy non-investment insurance product*;

(b) a *firm* which *manufactures* or *distributes* any *funeral plan product* subject to PROD 7; and

(c) an *authorised fund manager* in relation to *products* subject to COLL 6.6.19R to 6.6.26G, COLL 8.5.16R to 8.5.22R, or COLL 15.7.16R to 15.7.24R.

(2) A *firm* in (1) must continue to apply PROD 4 and PROD 7 or the relevant *COLL rules* .

2A.4.33 R PRIN 2A.4 does not apply to both:

(1) *units* in an *authorised fund* or the *sub-fund* of such a scheme, where the relevant *authorised fund* or *sub-fund* is in the process of winding up or termination under, or in accordance with, COLL 7.3, COLL 7.4, or COLL 7.4A; and

(2) *units* or *shares* in a *fund* or *sub-fund* which is not an authorised fund or a sub-fund of such a scheme or *AIF*, where the relevant fund or sub-fund is in a process of winding up or termination which is equivalent to that referred to in (1).

2A.4.34 R (1) A *manufacturer* of a *funeral plan product* which is a *closed product* and was *manufactured* before 29 July 2022 must apply the *closed product rules* and *guidance* in PRIN 2A.4..

(2) The *closed product rules* and *guidance* are PRIN 2A.4.1R to 2A.4.2R, 2A.4.4G to 2A.4.6G, 2A.4.8R to 2A.4.12G 2A.4.20R to 2A.4.25R and 2A.4.29R to 2A.4.31G.

2A.4.35 E Where a *manufacturer* of a *closed product* which is a *funeral plan product manufactured* before 29 July 2022 is following the provisions of PROD 7 concerning the fair value of *funeral plan products*, contravention of PROD 7 may be relied on as tending to establish contravention of those provisions of PRIN 2A.4 that apply to the *firm*.

Application to pension scheme operators and providers of pathway investments

2A.4.36 R

(1) This *rule* applies to a *firm* that is required to comply with COBS 19.5 (Independent Governance Committees (IGCs) and publication and disclosure of costs and charges).

(2) A *firm* to which this *rule* applies must use the value for money assessment carried out by the *IGC* or the *governance advisory arrangement* when carrying out its value assessment under PRIN 2A.4.2R.

(3) Where a *firm* disagrees with the value for money assessment carried out by the *IGC* or the *governance advisory arrangement* it must:

(a) explain why it disagrees with the assessment; and

(b) set out how it considers the *relevant scheme* or *pathway investment* provides fair value.

(4) In setting out how it considers the *relevant scheme* or *pathway investment* provides fair value the *firm* must use the framework set out in COBS 19.5.

(5) A *firm* that is unable to adequately explain why it disagrees with a value for money assessment conducted under COBS 19.5 must apply PRIN 2A.4.25R to the *relevant scheme* or *pathway investment*.