Chapter 2A

The Consumer Duty



#### 2A.9 Monitoring of consumer outcomes

#### General

- 2A.9.1 R This section sets out the general obligation on firms to monitor under Principle 12 and ■ PRIN 2A the outcomes that retail customers are experiencing from their products.
- G 2A.9.2 The purpose of the monitoring obligation is to enable *firms* to identify whether there are any risks that they are not meeting the requirements of the cross-cutting obligations and the retail customer outcomes, and consequently they are not acting to deliver good outcomes for retail customers.
- G 2A.9.3 The frequency of monitoring, and the nature of the information a *firm* must collect to effectively monitor the outcomes received by retail customers depends on the type of *firm* and its role in the distribution chain, the nature of the product, and the target market.
- 2A.9.4 G (1) The monitoring obligation applies proportionately to a firm's role in the distribution chain. Where a firm does not have direct contact with retail customers it should monitor the outcomes of the service it provides, having regard to any information it has about the outcomes experienced by retail customers at the end of the distribution chain.
  - (2) A firm that does not have direct contact with retail customers should act reasonably to obtain information about the outcomes experienced by retail customers of the products the firm has distributed.
- 2A.9.5 To the extent that a *firm* is also required to carry out specific monitoring or reviews under any of the outcomes in ■ PRIN 2A.3 to ■ PRIN 2A.6, the specific monitoring or reviews form part of the general monitoring required by this section and firms may utilise the information gathered through these processes in preparing the report required under ■ PRIN 2A.8.3R.
- G 2A.9.6 In relation to communications, ■ PRIN 2A.5.10R to ■ PRIN 2A.5.14R set out specific requirements on the testing and monitoring of communications.
- G 2A.9.7 Where a firm's compliance with any other rules replaces their requirement to comply with provisions of PRIN 2A, or tends to show compliance with

provisions of PRIN 2A, the *firm* may use any monitoring or reviews it carries out under those other *rules* in complying with its monitoring obligations under this section.

# Requirement to monitor retail customer outcomes

#### 2A.9.8

A firm must regularly monitor the outcomes retail customers receive from:

- (1) the products the firm manufactures or distributes;
- (2) the communications the firm has with retail customers; and
- (3) the customer support the *firm* provides to *retail customers*.

# 2A.9.9 R

The monitoring carried out by a *firm* must enable it to determine at least:

- (1) whether *retail customers* are being, or have been, sold *products* that have been designed to meet their needs, characteristics and objectives;
- (2) whether the *products* that *retail customers* purchase provide fair value and appropriate action has been taken to address *products* identified as not providing fair value;
- (3) whether *retail customers* are equipped with the right information to make effective, timely and properly informed decisions; and
- (4) whether retail customers receive the support they need.

#### 2A.9.10 R

The firm's monitoring must also enable it to identify:

- (1) whether the *firm* is complying with *Principle* 12 and the cross-cutting obligations in PRIN 2A.2;
- (2) whether for any *product* the *firm manufactures* or *distributes*, any group of retail customers is experiencing different outcomes compared to another group of *retail customers* of the same *product*; and
- (3) whether any *retail customers* have suffered harm as a result of the *firm's* acts or omissions.

# **Action required of firms**

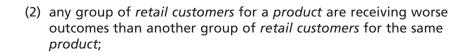
# 2A.9.11 R

A *firm* must have in place processes to identify the root causes of any failure to deliver the outcomes listed in PRIN 2A.9.9R for *retail customers*.

#### 2A.9.12 R

Where a firm identifies that:

retail customers are not receiving the outcomes listed in
■ PRIN 2A.9.9R, or there is a risk that retail customers will not receive these outcomes;



(3) the firm is not complying with Principle 12 and the cross-cutting obligations in ■ PRIN 2A.2,

it must take appropriate action to address the situation.

- PRIN 2A.9.12R does not require a *firm* to take action to remove the effects 2A.9.13 G of risks inherent in a product that the firm reasonably believed the retail customer understood and accepted.
- 2A.9.14 G Firms should have regard to ■ PRIN 2A.10 in considering what may be appropriate action under ■ PRIN 2A.9.12R.

# Record keeping

G 2A.9.15 ■ SYSC 3 and ■ SYSC 9 contain high level requirements in relation to record keeping. Firms will need to decide, in line with these requirements, what records they need to keep in relation to their obligations under Principle 12, the cross-cutting obligations and the consumer outcomes.

# Obligation to notify the FCA

- 2A.9.16 G Firms are reminded of their obligations under Principle 11 to inform the FCA of anything relating to the firm of which the FCA would reasonably expect notice.
- 2A.9.17 R A firm in a distribution chain must notify the FCA if it becomes aware that any other firm in that distribution chain is not or may not be complying with Principle 12 or ■ PRIN 2A.