

0:02

Hello, everyone. Thank you very much for attending this consumer duty session on on insurance.

0:10

What we're going to try to go a little bit of a balancing act, we know that many of you have been to the other sessions, and so we're going to try and make this insurance specific as possible. We also know, from the attendee list, that not everyone has managed to make it to those other sessions.

0:25

So, there's going to be a bit of duplication. I hope you will think that's fine.

0:30

Because, you know, you may well think it's good to get as many different views on this troubling topic as possible, So, let me just few points of introduction. There are some insurance businesses, carriers, and intermediaries, that we've spoken to, who say that this just word smithing, and isn't going to make a huge amounts difference. There are others who think whether words, smithing or not. This is going to be very important, indeed, for what it's worth. And I hope we'll be able to explain. We're not sure this is just word Smithing. We think this really matters.

1:01

And we think it is going to place quite a considerable burden on insurance firms of all sorts. If I had to just mention one theme, I would like you all to bear in mind.

1:14

As we go through this, I would just try and focus on data NDVI.

1:19

Just have a think if you will about the amount of data you're going to have to capture to discharge duties unto the conceit maturity.

1:28

Think about how that raw data is going to have to be captured in temperature of air by rho, M I and so on and so forth.

1:36

Think about the individuals who are going to have to consider that timely and make decisions on the back of that time, I think about the trucking burden, to make sure that those decisions are executed and then monitored so that they're working in practice. As I say, bear that in mind, because I think that she's going to be a real challenge. Now, I'm really happy. I've got some fantastic co presenters with me today. Rob Garwood is a partner in our insurance team, I work very closely with Rob. Rob is a specialist in insurance distribution agreements, actually, for both carriers and distributors.

2:08

I can't think of anyone who has done more work in this area, Rob is going to help and ensures have a bit of a headstart don't make because they've been involved in IDD and prod full. ROVs going to help

us navigate that thicket when we superimpose can see maturity onto it. Sarah Herbert is the head of our compliance team at AG.

2:29

Just in case there's many compliance professionals on the code, it's not just lawyers. Lawyers sometimes all good that Good at the Practicalities: We aren't good at operationalizing the advice we give. This is why we've got Sarah on the call.

2:42

Sarah is going to be looking at topics such as governance, senior management practices, MI monitoring, and reporting to regulators. I think we've got a really, really good team. OK, Rashida, if we can go to the first slide, please.

3:00

Thank you, Dave. I'm sure you've all seen this slide before.

3:04

Um, you know, the top bullets express.

3:08

What should we say, dissatisfaction? Let's put it that way. Dissatisfaction with whether TCF and principle seven has been meeting its obligations. I must say, I think it's pretty clear to me that some of that dissatisfaction will be directed at the insurance industry. Rashida, Let's go to the next one.

3:31

So, let's just just, let's just talk a bit about why insurance products are likely to be a particular problem, except I think, people will probably think mail that typically annual contracts. Typically they will expire without a claim being made. Indeed, historically, policy holders have even been encouraged not to make a claim. And so, you know you can see all sorts of value problems and situations justice that insurance is subject to. What I call the over insurance heuristic. You know, I bought a mobile phone the other day. I very much liked it. Someone came up to me an Apple and asked me if I wanted to protect that phone, and at that point in time, I would have paid anything to protect that phone. So I therefore bought an insurance contract, which I could have brought much cheaper. I simply way to 2 or 3 days.

4:21

You know, that that idea that insurance is point protection for the things. We love sometimes to the people. We love. It's one of the reasons why people inch over and show it's one of the heuristics that the FCI is trying to encourage us not to take advantage of.

4:38

Insurance is where at least is based on a contract, and the contract is often long and complicated, and there are limited opportunities to examine the whole of that contract before it is purchased.

4:49

Some of you may remember, back in the contract certainty days, you, you didn't even get the contract before you entered into the contract of insurance. So what a different world that looks like now, to the world of consumer duty.

5:04

Distribution chain, For many types of insurance, it's very long, indeed. Meaning, there's all sorts of opportunities for skewed incentives to take place. Distribution, remuneration is still typically brokerage.

5:17

When I made that point a few days ago, someone interrupted, and asked whether I thought consumer duty was the end of brokerage.

5:24

I don't think it is, the end of brokerage at all, but I think that those firms who favor brokerage as remuneration model, which I suspect will be most insurance distributor's and possibly carriers, as well, will need to be able to justify why brokerage produces fair outcomes for customers.

5:42

Um, No, we use too many types of insurance, giving rise to hard fought litigation.

5:51

Web, pop, the parties are adversarial, I wonder how much future there is.

5:57

In a consumer duty environment.

5:59

and of course, all of those points I've made apply to, in particular generally short, but in many respects, the position is even more acute with long term insurance. These are hugely important contracts for the policies often lasting 30 years or more, where you might go through 3 or 4 business cycles.

6:16

In the course of a long term life insurance contract that contract may be intended to protect someone during their retirement or a payout upon a life. These are very, very important contracts and date.

6:29

So, I suppose what I'm saying is, if anyone wants to sites me, consumer duty, who is, which, which sub sectors are most likely to be affected by this, I think I would say I'm not exactly sure, But insurance has got to be why it's up there amongst the sectors that the industry that the regulator really wanted to take this seriously, Rashida Kuni go to the next slide.

6:56

So, let's just remind ourselves of TCF broken up one day say, oh, do you remember TCF? Well, we're not always because TCF and Principle seven is going to apply to those who aren't covered by the new Consumer GT.

7:12

But I think it did, it had become a bit hackneyed, it was all too easy for lawyers like me to write legal opinions that said, you know, the firm might reasonably decide that such and such a practice would not involve a breach of TCF because there is no history of ESEA taking enforcement action. There's no supervisory guidance on this point.

7:35

So I think some sort of shakeup wasn't needed.

7:39

And so, what you see there is now two replaced with rashida. Next one.

7:51

Could you change the slide?

7:53

Thank you. There are going to be replaced by the new consumer gizzi.

7:58

Now, this this I'm going to courage. You should look at this in a particular way. What?

8:05

Yes yeah, I would expect you to think about is that there is a general principle.

8:12

There are then some cross cutting rules which express how that general principle is to be expressed. That's a sort of more drill down level.

8:21

And then there are outcomes which the cross cutting rules were intended to promote, all of that is sensible. All of that is probably correct.

8:30

I just want to remind you that at the end of the day, these are still just rules and guidance.

8:36

When something goes wrong, which is one of the things that we must think about, I don't want us to adopt an overly pessimistic attitude when right from the very beginning with thinking about enforcement in Section 166 is and all of those bad situations. But some when one of those is on the horizon.

8:52

At the end of the day, you're going to be looking at these rules and looking at these bits of guidance and working out whether they do or do not apply.

9:00

What we're going to do today, at least until Sarah gets on the line and is able to give you a more practical overview, is very much focused on some of these things as rules that make sense, OK.

9:12

Rasheed, let's have a look at the next slide, please.

9:17

Now you will all know this, but let's just remind ourselves the industry all symbol time. This was almost a universal request and insofar as the FCA did allow more time. That is only lipservice compared to what the industry genuinely wanted.

9:36

And so these are aggressive and these are difficult guidelines.

9:39

The first one arises to be 2022 firms are going to have to scrutinize and challenge the plans which have been produced to ensure they're deliverable and robust to meet the new standards.

9:53

There's two things going on here.

9:55

There's first of all, the production of plans.

9:57

Bye.

9:58

People like the compliance function of the legal function, and then the challenge of those plans, by the relevant management body, and the firm, All of that is going to be documented, There is barely enough time to do that. That is, that is a very, very aggressive timetable indeed.

10:18

Manufacturers should aim to complete all the reviews necessary to meet the outcome rules.

10:23

By the end of April, 2023, as Rob will explain, that's because manufacturers have to give certain information to distributors.

10:32

That needs to be done by July 20, 23 so that the rules can be applied, can be complied with for existing products and services that remain on sale or open for renewal.

10:44

And then by the end of July 24, 2 2 will come into force and apply to all closed products, services.

10:56

So let's say a few words on scope.

10:58

Scope is one of the big issues for insurance businesses. So we we all talk about the consumer duty, don't we implying that that applies to individuals who are acting on their own account, who aren't acting in the course of a business trade or profession. But as you probably all know, that isn't how it works with insurance. So, it has the same coverage as for ....

11:23

That means it applies no circumstances, except for re-insurance contracts.

11:28

Contracts of large risks for a commercial customer or the risk is located outside the UK, and ensures distributions in respect of a group policy.

11:38

Rashida, let's just remind everyone of what the contracts of large risk category involves. Go to the next slide, please.

11:47

Now, you would have seen this slide before this slide emanated from solvency two Directive and the IDD, and these concepts have been around for ages. I had to look at this this morning.

11:58

I'm not going to read this out to you, but what I hope is clear is I suspect many of your business customers are captured, um, under the consumer duty.

12:12

Now, the insurance industry made a really, really good attempt at lobbying to keep small and medium sized undertakings out of the consumer GT, and frankly robustly failed. They are well in. And so, you know, there we are. That's what we're left with having to deal with.

12:30

A consumer duty rule which for insurers covers many, many more types of business types of customer than simply your typical retail human being.

12:42

Rashida, next one please.

12:47

Let's, let's have a look at some other scope problems.

12:51

I'm tracking the changing sizes of clients on the margins of the SME definition, is going to be a pain. Some of you think, well, we do that already. We have to do it at the moment. I understand that. But it is a Real nuisance. We had a conversation with a client the other day. It wasn't for these purposes.

13:09

They were looking at it for deposit, taking the single customer view rules, and, again, found the burden of tracking the shifting sizes of that particular clients almost intolerable and trying to work out whether these protections applied or not.

13:26

A medium sized business may be a real customer, a retail customer when taking out insurance or not when taking out a loan or depositing money with a bank yesterday. I recognize this issue and they're willing to ride the pumps understand That's going to be a problem, But nonetheless, you're going to have to do with it.

13:44

Insurance firms that service, SMEs and large customers will be subject to the customer duty with respect to the former. But not for the latter, again.

13:53

That's going to be difficult, isn't it?

13:56

It includes firms that have a direct relationship with the retail customer, obviously, but also those who don't provide it, and here's the important thing, they can determine, or maturely influence retail customer outcomes. We'll have a think about what that might mean later.

14:13

The ..., she applies to both the front end and the back book. I'm going to later raise a query about what happens with expired products and whether it can really apply in that situation.

14:26

The teacher will also apply to activities that are ancillary to regulate activities. Let's just deal with this now, because this is important.

14:34

You know, we live in a world where you can buy a Ferrari, that's an unregulated purchase. There's no one, ostensibly stopping you.

14:44

Other than consumer rights legislation and the contract from Misselling that Ferrari, the same salesperson tries to sell an insurance product that covers the wheels, or the windscreen. And all of a

sudden, you're in the regulated sector. Now like the good news is that the selling of that Ferrari is not ancillary to regulated activities. Thank God. Can you imagine how many ferrari's, music, systems, and so on, and so forth, have been missed sold over the years?

15:13

But, if you sell an insurance product with a support package, maybe with some risk management advice, it is possible that that will be regarded as being in salary to the regulated activity. Probably needs to be determined on a case by case basis.

15:28

The tutsi only applies to firms conducting regulated activity in the UK, and firms selling into the UK from Gibraltar. And the duty can apply to UK manufacturers selling to non UK customers via non UK distributors That presents real problems. For those of you who are caught up in that situation, because the non UK distributors aren't subject to the rules, don't have to play back to the manufacturer. All the information required under the prod rules that Rob is going to look into shortly. And so I think if you're caught in that category, you might want to think about those problems very carefully. OK, let slide, please.

16:09

Let's, let's, let's go through the rules.

16:12

Let's just say we're gonna go through the rules in a nicotine little while if you know what I mean, really, really workout what these rules are getting at, and try and think of some examples that are captured from an insurance perspective. You, all by now, I'm sure. No.

16:26

The new principle, the principle is to be interpreted in accordance with the standard that could reasonably be expected of a prudent firm, for those of you who are interested in these things.

16:37

I think that is a higher standard that exists in common law.

16:42

I noticed that point to a point seven zero point three G. Let's just leave this together.

16:49

I think this is, I think there's something a little bit nasty as a kicker in this, acting in a way that could reasonably be expected of uprooting firm, requires more than adopting a single solution that is reasonable.

17:01

It includes, amongst other things, considering whether whether the preferred solution provide good outcomes for all retail customers affected or only some, and if only some why. It does not work rule.

17:14



Now, that to me, is going to be an enormously difficult standard to reach for all retail customers.

17:23

You have to produce reasonable outcomes or at least be able to generate the MI management's information to support the view that perhaps it wasn't appropriate for you to do. So in that case, we'll look at that in a little bit more detail later.

17:39

Again, another rule which I thought was important, which you will know about a feminist distribution, shameless, notify the FTA, if it becomes aware, than any other firm in that distribution trade is, or may not be complying with the rules.

17:51

Maybe Rob will touch upon this later, But if you're trying to negotiate contracts with other parties in the distribution chain, they may see things differently to you, They may not accept the status that you would attribute to them under the rules. That can cause problems. Does that mean that you go to the FTA and notify a concern under this rule?

18:12

And I'm sure some of you are thinking, yes, but, you know, would we ever be trusted?

18:17

By those? those partners that we work with very closely?

18:21

If every five minutes we were off the FCA notifying them about others in the distribution chain, we did not think would comply. So there's a rule there.

18:30

It needs to be balanced in practice, doesn't it, by no one's position in the market.

18:36

Rashida could we have the next slide?

18:43

Retro retrospection is true. Is all these rules retrospective, Retrospective of T is an important point is it's almost like a point of principle.

18:56

If there is to be a new law created, that new law should not apply to things that have happened. That's simply unfair, isn't it?

19:03

How could people adjust their behavior in the past when the law is in the future?

19:08

The FCA has said generally elements of the Seam of Duty would apply only on a forward looking basis. Isn't that encouraging I wonder whether they're being slightly meet e-mails with their language there.

19:22

So, I am genuinely worried about people who are viewing rules retrospectively. And I think there was a risk that that might happen in this case.

19:32

Those of you who are P I ensures, no insurers and to ensure financial services businesses, will know that the falls often takes a bit of SCI guidance, say, which is published in 2015.

19:46

And we'll apply it to circumstances That happened pre 2015 on the basis that it probably represented good practice in the historic past before it was published. Now, I think there was a real risk of that happening with these rules.

20:01

So just look, count if you would, for the problem of retrospection.

20:06

That is to these these current standards being applied in the past.

20:10

I don't have a problem with the FCA saying that the guidance in relation to Principle 6 and 7 is relevance to the consumer duty that seems to me to be fair.

20:22

What I think is unfair is to suggest that the new guidance and rules around consumer duty might be relevant to Principle 6 and 7 applications before this treaty came into effect as to say something to look out for.

20:37

Rashida. Can we go to the next one?

20:43

I'm Not gonna spend too long on the consumer TT princeville.

20:47

All I will say is that the FCA has said but it is a higher and more exacting standard then existing principles 6 and 7.

20:57

And my question is is it and what is the, what is the status of the ... views that it is?

21:05

I don't know that we need to be too worried. The EFCA takes that view. The words are what they are. The rule is what it says.

21:13

The SGA comments that, it continues to acknowledge that consumers should take responsibility for their decisions and it calls out Section three B a FISMA. I know that some people are thinking that that principle is very, very much being eroded through amongst other things. The application of the consumer duty.

21:32

And we have we have again, this concept of the prudent firm.

21:36

A few times in the C P is a discussion documents. The FCA has called out this particular point and I think it's almost made a bit cheekily. To me.

21:47

This is my own wording. Firms should spend equivalent effort to ensuring good cost of our customers as they do in generating revenue and profit and acquiring new customers.

21:56

Just a tip: if you're gonna have a set of board minutes, make sure that those board minutes cover customer outcomes just as much as they do finance.

22:05

You know, revenue generation, controlling costs and all of those things.

22:11

All too often we, as lawyers, when the FCI, off disabled many minutes or committee minutes, to more of a focus on those financial metrics and customer outcomes metrics. that I'm sure is going to change.

22:27

Proceed to the next one.

22:32

I'm going to be relatively quick on the rules, but just say this about the rule. Good faith.

22:37

Now that to me, means when you do something wrong, deliberately, this is the worst rule, by, by the worst. I mean, it's the rule that you do not want to be criticized for.

22:48

I'm not sure if it adds anything new, because I think acting in good faith means absolutely the same as behaving with integrity, which is the current principal one.

22:58

But I think a firm that is accused of acting in bad faith towards retail customers and for example, deliberately exploiting behavioral biases or deliberately creating obstacles is, isn't a bad place.

23:13

I would not want to be, um, accused of falling foul of that rule.

23:20

And if I was, I would suspect that the higher types are fine, and bad outcome is going to happen to me.

23:27

Next one, please, sheba.

23:33

Um, again, I am troubled by this rule.

23:38

You would not enter into a contract with someone where you simply avoided causing them foreseeable harm or agreed to that.

23:46

Normally, that is accompanied by breach of the duty of some nature.

23:51

And I think this is going to cause real difficulty. So let me just give you an example.

23:56

Let's suppose that I enter into an insurance contract with the customer.

24:00

He, in other words, he buys the policy and he rings me and says, the policy has an exclusion in it and are afraid to tell you I've just breached the exclusion.

24:10

I'm going to make a loss and that loss is going to be not covered by the policy because I've breached an exclusion.

24:18

Um, you therefore, see home as a result of something that you might do.

24:25

You might insist that the exclusion applies or not do.

24:30

You might failed to await the exclusion.

24:32

Is it really intended to encompass that?

24:37

I genuinely don't see how it could, But when I look at the rules, it appears to me to be an extraordinarily wide rule.

24:44

I think the only way to interpret that is it must apply to products and services, which are which are in play at the moment.

24:53

And as soon as the contract of insurance is executed, the the insurance policy is as it is with all the exclusions in the subject, of course, to the duty to make the main exclusions obviously known to the customer before they took out the exclusion site. That particular rule does cause me difficulty.

25:12

Machine two, if we can go to the next one.

25:19

And, again, I must admit, I do have a problem with, but, the next room. I don't I don't think I would. Let me just find this.

25:29

I don't think I would ever enter into a contract with someone to enable and support their attainments of their financial objectives.

25:40

Their financial objectives are probably not known to me and to their fullest extent.

25:47

Whatever time you are, you won't have only limited ability to help clients meet their financial objectives. Now, you might be saying to yourself, Oh. Hold on, Steven.

25:56

You're being too literal about this, Yesterday I get it interpret this rule in an unreasonable way.

26:04

They're going to think about what the prudent firm might do.

26:08

All I would say is, just be cautious about that view all that it needs, is four, a regulator to put to you, that you failed to meet this objective and already you're on the back foot.

26:21

You know, already, you're calling your ensures, seeing if you've got cover, having to do with lawyers, diverting your management time. Costs are being incurred.

26:31

So it does worry me that there is a rule as open-ended as this one, even if it's apparently constrained by these notions of reasonableness and the prudent firm.

26:44

OK, now I think I'm going to stop now. And you're going to hear from Rob on, amongst other things, the product governance aspects of this. And then Sarah.

26:56

Oh, sorry, Rob, before you jump in, I apologize, I didn't do this area.

27:01

Very quick reminder from us, there's a, there's a payment services session at 9 30 tomorrow, Any of you, very, very welcome to that, to join that one. And at three o'clock tomorrow, we have a consumer duty, sessional mortgages. These are sort of products, sub sector specific. Sorry, Rob, please carry on.

27:19

Great, thanks, Stephen. So, I'm going to go into a bit more detail into the next layer down in the, in the pyramid. So underneath the crosscutting rules that statement just talked about, we've got the full four key key rules that they would products or services.

27:40

Value, Customer communications, and then Customer, Customer Service, Inc, And this is where kind of insurance is a bit ahead of the ahead of the curve in terms of other product areas.

27:53

Of course, ever since IDT came in, back in 2018, insurance has been subject to the customer's best interest rule.

28:02

So, in a way, in a way that looks even more universal than they than they did.

28:09

That the high level of customer duty kind of really hasn't didn't really bring much of a step change in behavioral practices, which is what led to the EFCA. It's bringing in the additional insurance pricing rules, and an additional product governance rules to do is fair value.

28:29

Um, so, just some key concepts here, under the first section of the more detailed rules. We've got those on products and services.

28:39

So, here, the rules distinguish. Just like they do and they proposed rules between the concept of a manufacturer and distributor.

28:50

Um, so a manufacturer is a firm that creates, develops designs issues, managers operates cameras outs, or in relation to insurance underwrites the products. So it's a really broad definition.

29:03

Distributor is affirmed. The Office Sales Recommends Advisors arranges, deals, proposes or provides a product.

29:11

It's worth flagging that these definitions are different than the definitions that are used in ....

29:20

In particular, the definition of a distributed portfolio is limited to affirm that proposes so advises on contracts of insurance.

29:30

So, where ours, distribution in the consumer juicy sense covers a thin offers.

29:36

cells, arrangers deals or provides a product.

29:40

The definition portfolio just talks by proposing or advising which in a way looks much more limited than it might be because you could be doing a regulated activity of, say, making arrangements are the view to transactions and insurance by making an introduction. But you're not actually proposing a contract to mature and just introducing to someone who would then make that proposal, which on the face of it looks like you wouldn't be caught by the port four rules, however. The FCA has indicates it.

30:18

It does expect the vast majority of insurance intermediaries to be caught by the port four rules and it would only be in quite unusual circumstances. That's an intermediate would be, would not be a distributor for the purposes of, for the purposes of portfolio.

30:37

But nevertheless, in theory, there could be circumstances where you're not distributed COPPA portfolio, but you are distributed to co pi cube by consumer GT in relation to insurance.

30:48

Do this thing to note is that, um, a distributor is someone who proposes an approach for a distributor, is someone who's distributing products, that they do not manufacturer.

31:03

So, by definition, you can't be a you call. If you if you're the manufacturer product, you can't be the distributor of that product.

31:12

However, the FDA said in Chrome manufacturing situations, which we'll come on to wear.

31:18

An insurance intermediary is a car manufacturer.

31:20

They still need to comply with the distribute the rules, which is a bit complex in terms of High River, how the definitions work.

31:30

Similarly, disliked areas in input for the as the concept of being a possibility of being a carrier manufacturer under the Consumer GEC rules.

31:43

Where in the guidance, some consumers, each of the FCA says, the firm would be considered to be a car manufacturer where they determine or materially influence the manufacture of a product or service, and that's where they determine the essential features or main elements of a product or service.

32:02

So that's pretty similar to said that guidance on, come, on FHIR, under the ... for rules. However, emulation to plot for we've got all the ... guidance that was given at the time. At the time, IDT came into force that ...

32:23

gave a lot of much more detailed guidance in terms of circumstances where he considered that intermediary would be a car manufacturer. And then they wouldn't and what wouldn't wouldn't constitutes setting someone over into a ... tractor relationship. And they said the things like things like branding, ownership, of name.

32:45



So, for example, in a white label arrangement where a retailer selling an insurance insures insurance products under its own brand, that would be relevant in determining whether it was a car manufacturer relationship but it wouldn't be conclusive.

33:01

It just might be that if there was, if the retailer had some influence, but fairly, not complete control, but some influence over the some of the some of the key features.

33:14

A brand date environment that might tip over into being a coming in fracture but in a non branded environments, it might not. You need to look at the arrangement holistically and take into account.

33:24

All the features of our arrangement when considering whether or not an intermediary, it would be tipped over and so I kind of manufacturer It's become an adventurer.

33:37

Um, one of the really helpful things that the, the FCA has done issuing the final.

33:45

The final rules is make it clear thoughts if you are an insurer and you're subject to plot for emulation to products. You don't also needs to comply with the consumer GT rules of products and services.

34:03

Whereas, before, they just set dots, if you're complying with a portfolio that indicates compliance with the ...

34:11

rules, but didn't actually say that, you didn't need to comply with the rules to study.

34:16

It lightly went towards, indicates in compliance, but now there's a much more clearer delineation that if your input for the component port for them, if you don't need to concern yourself with print print to a three, which is helpful, because, even though the rules are very similar.

34:36

There is differences in the detail, and in some ways, the ...

34:40

rules are made, details. Which they can be because that's specific to insurance products.

34:47

Both the requirements are slightly different, so it would be quite messy situation if you want to comply with two very similar, but slightly different set or sets of rules.

34:58

Um, but, broadly, the requirements are pretty similar to a high level. So, manufacturer has to maintain an upright review, political process for each products, each new products, and it's significant adaptation of a product before that, is before the new products or adaptation is marketed or distributed to retail customers.

35:21

If we go into the next slide, please.

35:27

I'm just liking the, Just like in the approach for rules, a manufacturer must specify a Target markets, take into account the nature, characteristics, and how complex the product is.

35:46

It must test products before launching it to market, and it must carry out a review of that product.

35:56

And on the backend of, On the back of the results of the product review, of the product testing, a manufacturer must take certain actions.

36:07

So, for example, if it determines that the products isn't suitable for the target markets, a must stop selling it, unless it must make change either, Kind of stop selling it or make changes to it, in order to make it, to make it appropriate for, for the target market. And, if it did stop selling, it would need to do, you would need to take into account the impact on customers ways and think about ways to mitigate the impacts.

36:42

It might need co-operation from the distributor distribution chain, in order to take the actions required on the bucket.

36:52

On the bucket of product testing, go put a review, for example, efforts.

36:58

It needs to make changes to the way the products sold, or there needs to be a change to the target markets for their products that may need to be implemented by the distributor.

37:09

And so, it would require the distributor to take certain actions on the back of those.

37:15

On the back of the decisions, it makes following the following, the review of testing.

37:22

Um, if we move on to the next slide.

37:28

Um, so the manufacturer just like an ... rules is responsible for creating a distribution strategy and making sure that it's appropriate for the product. And then the distributor has to implement the distribution strategy and also has some law obligations to the manufacturer. But in relation to the to the distribution arrangements.

37:51

Um, so a manufacturer, I must maintain upright MFG, a product distribution arrangements for each products. You know, just to make sure that it's foreseeable harm. And similar, if the outcome of our review means that the distribution arrangements are not appropriate for the customers, or they are causing harm, and must make changes to those.

38:17

Um, just like in port for the requirement for there to be an exchange of information between the manufacturer and the distributor. So, the distributor must obtain information from the manufacturer about the products about the target markets. About the character, any, any specific elements of the target market, For example, with characteristics, have been the ability to make sure that it's distributing the product and the way that the manufacturer intended.

38:46

Um, where products has existing contracts entered into before they contributed comes into force.

38:55

Unless a famous identified a breach of the rules enforced at the time, the appropriate action must take, doesn't require it to waive any vested rights under those existing contracts.

39:08

And if vested rights, you think it's likely to mean payments that have been already to under the under the terms of the contract.

39:16

So, where the Customers zodiac creative rights to a payments renamed Ration for Services that have been wholly or partly provided already under the contract, or contractual charges that are payable on early termination of the contract.

39:32

Um, and where does it say another incentive points flag is where does the distribution chain, but includes a person who isn't subject to print rules?

39:44

For example, if not authorized themselves, then the distribution must take all reasonable steps to ensure that the relevant requirements are complied with.

39:58

Just like, just like in relation to port four, these rules will, it will acquire changes to the distribution of agents between the manufacturer and distributor, from both sides perspective, to make sure that's not exchange of information between the two sides. To make sure that each part is the got the right thing, the rights they need to make changes to the product or to the distribution arrangements, if those needs to be made in order to meet the continuing duty requirements.

40:30

So, for example, as we said, if there was a review of the products and it was determined it wasn't appropriate Customers, O F the way the product was distributed was, yeah, wasn't in the best interest of customers as well and needed to be changed.

40:51

Um, having said that, that might be I mean, just like with the peripherals, there is those kind of to the teachers, the manufacturer in the duties of the distributor, to conflict in a way because both parties in the chain will need the ability to make certain changes to the distribution arrangements.

41:16

So, so the best position would be for you, as a manufacturer, for example, to have complete control over the distributor, and what the district does. However, that wouldn't be satisfactory from the just uses perspective, because the distribution is still some element of control.

41:29

If it's carried out its review of the distribution, arrangement entertainment, and stout's changes need to be made, so issues could devise the manufacturing. The districts of both have different views over what changes need to be made in order to ensure good customer outcomes of each party saying, no to manufacture sang, on its do X and the district to say on its D Y Based policies are saying, this is required in order to .... But actually those actions conflict, the same kind of issues arise as, as under the ..., product governance rules.

42:09

I'm gonna move on to the next slide, please.

42:16

So, the next section of rules, about price and value.

42:21

And again, just like the products and services rules, these effects were very similar to the, to the fair value rules that have input for.

42:31

And so if you're complying with the 4 or 5, probably rules, don't need to comply with the rules in print to wait for emulation to insurance.

42:40

Again, which is a much more help position than than in the original, the original tresh rules.

42:48

So, I'm just like him in terms of fair value.

42:54

Then, in general, at an insurance contracts and portfolio value, is the relationship between the amount paid by the customer, and the benefits they can reasonably expect to get?

43:05

I'm trying to provide fair value, or the amount paid for the product is reasonable relative to the benefits of the product. So, doesn't know.

43:16

Kind of absolute requirements in terms of value.

43:19

It's all about, um, same is true of elements of the product, price, and elements of the elements that make up the price, like commission, et cetera, all those reasonable. What benefits today? What contribute, What benefits do they provide? Or what value are they offering customers?

43:45

That would mean, huh, Even though the save, the cost for one product is higher for another, how can not be justified in terms it is not products providing more value to the customer. So, as to be looked at in the ground.

44:00

Um.

44:05

Yeah, the key applications in respect to the value assessments.

44:11

You must look at the nature of the products, including the benefits that are provided, and the quality of those benefits and services that are provided, and the products, and the limitations, and the products, the expected total price paid by the customer.

44:27

And any characteristics of vulnerability, and the, and the target markets for that product, the impacts of those foot characteristics have been mobility, on the customer's ability to receive fair value, from the, from the product.

44:45

Um, so manufacturers must ensure that the products provide fair value, its customers, and the target market they've identified.

44:56

And distributors must not distribute a product unless it's consistent with, with providing fair value to a customer.

45:10

Um, the distributor must make sure that it obtains sufficient information from the manufacturer to understand the manufacturer's assessment of fair value.

45:21

That doesn't necessarily mean that it needs to get the kind of full breakdown and workings of how that value assessment was done.

45:31

But just that, it understands the this confirmation that the product does provide fair value and information, enough information to enable it, to understand that.

45:47

Emily, to insurance, because the key a key element of look at fair value, will be looking at the costs that are taken out in the distribution chain, particularly where it's a lengthy distribution chain between the risk carrier and potentially a.

46:07

An intermediary device, the product, on behalf of the risk carrier, like an MTA, for example. Then a, another intermediate regime might say, for example, you could act as a car manufacturer that just joined me, designs the products and provides funding for the product, and then an aggregator who then sells the product.

46:31

And that kind of distribution chain, which isn't that unusual. There's multiple people taking out, taking out commission, which may be completely justified.

46:42

The part The various entities are incurring costs and adding value to that product, But up yeah, that just make the assessment of a valley more complicated than it would be for simple, straightforward, direct products.

47:01

Moving on to the next slide, please.

47:06

So, the next two sections are new requirements that will apply to, that will apply to Insurance, and the aren't covered by the system rules.

47:16

So, the first one is about consumer understanding.

47:24

It's worth noting, these rules apply, whether or not you've got a direct relationship with the customer and CEO of ... Field, into meter in direct Contact with a customer, or you're just another participant and they in the distribution chain, but ultimately don't have that direct direct contact with the customer. So, a firm must ensure that it supports retail customer understanding.

47:45

So this communications meet the information needs of customers are likely to be understood by customers.

47:53

And equip retail customers to make decisions that are effective, timely, promptly unformed.

48:01

Mean, in a way, these sort of overlap with the rules in, like, six, for Insurance, around the appropriate information rules to make that talk about customization, is provided by the appropriate information on, on a timely, in a timely manner, in order to do that. In order for them to be able to make an informed decision on the products that needs to be thought about. Not just, at the initial sale, but also. It says, midterm changes urban renewal, and during the, during the life cycle, the products. So.

48:35

There is a bit of overlap there, in terms of these rules, but they do go in a way they're less specific, but on the other hand, they also can go further, um, served as a requirement, test, and monitor the effectiveness of communications where appropriate. Initially, the testing requirement was up solutes can seem to apply to all customer communications.

49:00

Where in the final rules that is, that's been caveats edward's with web appropriates, pictures.

49:10

Would be a bit.

49:11

Probably feel a bit too onerous to test every single account communication with the customer beforehand because some communications could be fairly, could be pretty limited and not that have not that much of an impact. So my crystal perspective.

49:27

I didn't insurance contracts as well. You've got the compact some areas that I spoke with insurance as less?

49:34

Less requirements in terms of how?

49:37

How prescriptive in the form of information needs to be, says, the only exception to that, is because the iPad, which is very prescriptive.

49:45

We're, in other areas, you've got a lot of consumer credit challenges.

49:50

Having very prescriptive requirements, which you have to comply with, which he, which equally, I'm not that customer friendly, and don't necessarily a custom understanding, whereas, I think, generally, the iPad is a fairly customer friendly, customer friendly documents.

50:09

But these requirements go beyond just thinking about the kind of products, information.

50:17

Unapplied, two, good, um, yeah, good, gravy Young, Just kinda presale product information for the purchase affects all, all areas of the life cycle of the, of the products, including post, sale, servicing, et cetera.

50:37

Um.

50:42

So, um, yeah, in addition to the testing requirement. So you have to wear appropriate test communications before communicating them and regularly monitor the impacts of communications. Once they've been communicates it. So yeah.

50:58

the FCI expects firms to be monitoring how customers react to communications and identifying any issues, which are preventing.

51:08

Which are preventing customers for them, receiving a good customer outcome for that product, and where issues are identified as a requirement to correct any deficiencies by adapting them or adapting products or processes.

51:25

For example, sales, customer sales, jayne's co-insurance products.

51:29

To change those and to say that information is provided in communications are made in a more effective way that's helpful, that's more helpful to customers.



51:42

The next slide, please.

51:48

Um, um, the last section is about retail customer, customer outcomes on customer support.

51:57

And again, this applies at all points in the product life cycle.

52:05

And this is something that is, I think, go beyond, is covered specifically under current rules that affects insurance.

52:13

Don't think this is really covered in many of the existing put rules, or I copes. And this is about ultimately making sure customers can get the benefits of the products that they are receiving. Which really an insurance contract will come down to the claim.

52:30

That's the most important aspects of the Chairman's products is really the customer's ability to make a claim and will tell me that's where the benefit of insurance comes from, sets, making sure that if there's no unreasonable barriers to focus towards be able to measure to be able to measure claim, there's no unnecessary friction.

52:54

Um, that they don't incur kind of reasonable additional costs or barriers.

53:04

But this also applies beyond that to also their ability to receive information about the products or if they've got an inquiry, or if they want to switch the products, change to any product provider, making sure there's no unnecessary, unreasonable barriers so that current state wants to make a complaints complaints about the products.

53:27

Um.

53:29

That's, that's it for the 52 rules.

53:33

I'll now hand over to Sarah just talked about vulnerable customers. The next section.

53:45

I've got, I've got my mute off, is turning the flip in.

53:49

The webcam can: Hey, sorry guys, I think I'm vulnerable when it comes to all this tech, vulnerable customer consideration, So they said this is final guidance on vulnerable customers last year and throughout the consumer DVT, they cross reference to it.

54:07

So, in addition to reading, the can seem the duty, we would suggest that you all three dot find comfortable customer guidance, particularly concerned about low literacy and low levels, numeracy, understanding, and they expect all the factors to be taken into account.

54:25

Rob was talking about the testing of customer communications earlier.

54:29

In the back of the finalized guidance, they give four different examples of how you can test communications ranging from very structured.

54:42

Isn't testing through to focus groups? And they just give examples of all of them.

54:47

What they're gonna be expecting is that whatever you feed up to your boards in terms of the testing you've done, And, you know, how comfortable you are, that your communications take into account vulnerable, take into account all the customers in your target market.

55:00

They're going to be looking at the accuracy and robust enough of that testing to see whether it actually reflects what they would expect it to do.

55:10

And all that needs to be evidenced and maintained.

55:14

If we come on to the next slide. Proceeds unconscious, conscious at the time.

55:20

Governance and culture. So, basically, they said that they're expecting consumer duty to stop and top-down. They've been saying this film on cultural change for some time.

55:30

They've actually included within the rules on consumer DTN annual report, The board needs to receive, consider, and action.

55:39

The first of those reports will come in 20 24, and the board will will get all of the outcomes on the monitoring that the customer, the firm has undertaken, to demonstrate to the Board.

55:52

All that stuff that everybody else has spoken about is actually in place and is being thing done.

55:59

The other thing that came as a bit of a surprise in the final rules was that the October 2022, the board or governing body needs to approve the implementation plan for ...

56:11

DT, and that the FCA expect to the board to be over something that implementation plan.

56:18

A lot of my clients have gone to my God, that's a bit of a bit quick, isn't it?

56:22

Um, what I've said is my small appliance I'm not expecting them to get a phone call from the SEIU November asking for their implementation plan.

56:30

But at the FTA, do do any thematic post implementation reviews, bisector.

56:37

one of the first things on the Sexual 1 6 5 information request will be your implementation plan, as delivered to your board in October 22.

56:46

I've been saying, if people really cannot do that, then they should at least do a plan for plan, and get that into their boards in October.

56:55

Clients have been sort of a bit pathetic and said, well, we don't have an October board.

57:00

I said, Well, you need you need to constitutes a board sometime before the end of October. In order that you can give them the plan, they can approve it.

57:08

Then on an ongoing basis, you harvest Annual report That needs to go to the Board.

57:13

If we just move on a bit.

57:16

Wow, you have to monitor the consumer outcomes.

57:21

You have to monitor whether retail customers have been sold, product they they would expect to be sold.

57:26

Products provide fair value, whether they're getting the right consumer outcomes, when they've got the right retail customers on the support they need, They're expecting it to be measured in all of those lenses on the first session on the slide with all the MOU that the FDA is expecting you to oversight.

57:46

And in that MI, they list complaint handling, complete root cause analysis.

57:50

What I would say is they're expecting complaints and root cause analysis to be looked at through these four lenses. And therefore, you should be able to segment your complaint material into these categories.

58:03

So, are they complaining about the product? Are they complaining about the value of a complaint, but they didn't understand any of it?

58:10

Or I'll be complaining about the fact that they can't get through on the five, which type of complaint is it?

58:15

Therefore, you can actually understand, which of the elements of ... is fully embedded, in which, but need more work?

58:24

Next slide.

58:27

They've also included new, so some things around redress.

58:35

So, obviously, when you have a complaint, then you've got to tell it to disprove.

58:38

What they said is, if in the monitoring you do on consumer DVT, you identify that there is significant foreseeable can see my home whether or not you've you've actually have any complaints from customers, then you've got to investigate, remediate, and take remedial action.

58:55

So that is quite significant, over and above what you got at the moment in death, and it's got ramifications for PII.

59:05

So there are new redressed requirements coming in.

59:08

That's all non complaint redress caused by the firm's own oversight of its consumer duty implementation.

59:17

A lot times, the only other slide I'm going to mention is, purchase the product books. They produce new rules and the final guidance around sale and purchase the books.

59:30

I'm not going to say any more on that, because we are actually out of time, though. We'll leave it at that for that one.

59:36

Then, the only other ones, so they've done the other changes they've made after the Senior Management Certification regime.

59:43

They've introduced a new Rule six thing.

59:47

You must deliver good outcomes for retail customers that then flow through into individual cocom rules under cocom, which then flows through into breach reporting under cocom.

59:59

And that's something that people need to be aware of. It's not a question. They just put something into code.

1:00:04

They cocoanuts already integrated with Supervisory Reporting, therefore, if you have any sort of issues around cocom breaches, under consumer duty, they will be visible to the regulator, and they will be able to pull them through.

1:00:19

But some, sorry, that tend to have very speedy fashion for me.

1:00:24

And we do have some questions, but I think we're out of time. Steven, by hand back to you.

1:00:29

Yes. Thank you. Thank you all for attending and thank you for staying with us, right, Until the very end, Sarah apology, she didn't get more time to deliver awesome, what was an important session, but those who sent three questions?

1:00:42

Can I suggest that we, we've got your details? We're going to respond to an e-mail? I'll make sure we do that promptly.

1:00:50

And SSI, thank you all for attending. Really appreciate the questions, and we'll get back to you on the Thank you very much.