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Dear CEO/Director

Implementing the Consumer Duty in Mainstream Consumer Credit Lenders (MCCL)

The Consumer Duty is a significant shift in our expectations of firms. It introduces a more outcomes-focused approach to consumer protection and sets higher expectations for the standard of care that firms give customers.

We are sending this letter to firms whose primary business model is the provision of mainstream consumer credit lending to help them implement and embed the Duty effectively. This letter sets out:

- A reminder of the implementation timeline, key elements of the Duty and how it applies to firms in the MCCL portfolio
- Our expectations for how firms should embed the Duty in the MCCL portfolio, including relevant examples of good and poor practice
- Feedback from our recent review of firms' implementation plans
- Our approach to supervising the Duty in the MCCL portfolio and planned next steps

We expect the Consumer Duty to be a top priority for you personally. We want good outcomes for customers to be at the heart of firms' strategies and business objectives, and leaders have a key role to play here. Firms' Boards and senior management should embed the interests of customers into the culture and purpose of the firm.

Your timeline for introducing the Duty

In July 2022, we published final rules and guidance for firms, and set out the following timeline for firms to implement the Duty:

- By the end of October 2022 firms' Boards or management bodies should have agreed their plans for implementing the Duty.
- By the end of April 2023 manufacturers should have completed all reviews necessary to meet the outcome rules and shared necessary information with their distributors.
- The Duty comes into force on 31 July 2023 for new and existing products or services that are open to sale or renewal.
- On 31 July 2024 the Duty come into force for closed products or services.

By now, your Board (or equivalent management body) should have agreed your Consumer Duty implementation plan and be able to evidence to us (if we ask) that they have scrutinised and challenged the plan to ensure it is deliverable and robust enough to meet the new standards. Such plan need not yet include detail of all changes required, but it should provide the framework under which your firm is acting now to meet the deadline.

We expect you to consider and discuss this letter with your fellow directors and Board (or management body), including the Consumer Duty Champion for your firm, and to agree with them what further action you should take to ensure that your firm meets the requirements and expectations we have set out.

How the Duty applies to firms in the MCCL portfolio

The Duty applies to products and services offered to retail customers, and to all firms who determine or have a material influence over customer outcomes – not just those with a direct customer relationship.

We have also written to firms in other key sectors about implementing the Duty (e.g., retail banking, insurance, investments). Where firms operate in multiple portfolios, these letters will be issued separately. You should consider the content of those letters where relevant to your firm's business and assess, through close reading of the new rules and guidance, what it may need to do or change to meet the higher standards set by the Duty.

We have set out a some more information about how the Duty applies to firms in the MCCL portfolio in Annex 1 to this letter.

Annex 2 highlights some aspects specific to the MCCL portfolio and our expectations for how firms should embed the Duty.

Overview of the requirements of the Duty

The Finalised Guidance we published in July provides firms with a full explanation of the requirements of the Duty, including many helpful examples of good and poor practice.

The Duty requires firms to act to deliver good outcomes for retail customers. Firms must act in good faith towards customers, avoid causing them foreseeable harm, and enable and support them to pursue their financial objectives. Firms should consider the diverse needs of their customers – including those with characteristics of vulnerability (see chapters 4-5 of the Guidance).

The Duty also introduces new rules and guidance to ensure that:

- **Products and services** are designed to meet the needs, characteristics, and objectives of a specified target market (chapter 6)

- **Price and value**: Products and services provide fair value with a reasonable relationship between the price consumers pay and the benefit they receive (chapter 7)

- **Consumer understanding**: Firms communicate in way that supports consumer understanding and equips consumers to make effective, timely and properly informed decisions (chapter 8)

- **Consumer support**: Firms provide support that meets consumers' needs throughout the life of the product or service (chapter 9)

A key part of the Duty is that firms are able to define, monitor, evidence and stand behind the outcomes their customers are experiencing (chapter 10). This monitoring must enable firms to identify where customers, or groups of customers, are experiencing poor outcomes, and where this is the case firms must take appropriate action to rectify the situation.

The Duty does not have a retrospective effect and does not apply to past actions by firms. However, the Duty applies, on a forward-looking basis, to firms' ongoing work for existing customers (chapter 3).

Our expectations for how firms should embed the Duty in the MCCL portfolio

Whilst you should consider all elements of the Duty, this letter sets out some initial areas where particular focus is needed considering our MCCL portfolio strategy and the harms in the sector.

We expect the senior management of your firm to carefully consider the contents of this letter and, in light of the issues it sets out, take any necessary steps to ensure that your firm will be compliant with the Duty on 31 July 2023 for new and existing products or services.

More detail on these issues and how they apply to firms in the MCCL portfolio, grouped by the relevant Consumer Duty outcome, is set out in Annex 2.

Feedback from our review of implementation plans

On 25 January we published feedback for firms on the implementation plans we have reviewed. This feedback contains examples of good practice, and areas for improvement, which will be useful for all firms to review as they implement the Duty.

Many of the plans we reviewed showed that firms have understood and embraced the shift to focus on consumer outcomes, established extensive programmes of work to embed the Duty, and are engaging with the substantive requirements.

However, we did also identify plans that suggested some firms may be further behind in their thinking and planning for the Duty. This brings a risk that they may not be ready in time, or they may struggle to embed the Duty effectively throughout their business.

We have identified three key areas where firms should particularly focus their attention during the second half of the implementation period (to 31 July 2023):

- **Effective prioritisation:** We saw some plans where it was not clear what the basis was for prioritising some implementation work ahead of other aspects. Firms should make sure they are prioritising appropriately, focusing on reducing the risk of poor consumer outcomes and assessing where they are likely to be furthest away from the requirements of the Duty.

- **Embedding the substantive requirements:** We saw some plans that suggested firms may have considered the requirements superficially or are over-confident that their existing policies and processes will be adequate. We urge firms to carefully consider the substantive requirements of the Duty, so that when they are reviewing their products and services, communications, and customer journeys, they identify and make the changes needed to meet the new standards.

- **Working with other firms:** To implement the Duty on time, many firms need to work and share information with other firms in the distribution chain. However, some firms may need to accelerate their work on this important aspect of implementation.

As they oversee the implementation of the Duty, firms' boards and management bodies will want to particularly focus and provide challenge in the three areas above, and on the other issues highlighted in our feedback.

Our supervisory approach and next steps

The Consumer Duty is a cornerstone of our three-year strategy, and a key element of our work to set and test higher standards between now and 2025. It is being prioritised at every level of the FCA, from the Board down, and it will drive our supervision strategies and prioritisation.

As part of this work, we are developing a strategy for MCCL Portfolio to embed the Duty in our Supervision work and tackle key harms, as well as metrics to measure the impact of the Duty in the sector.

Firms of all sizes in the sector should be prepared to discuss the Consumer Duty with us and to provide us with information on the reviews and assessments they have conducted as part of the embedding process. These additional engagements will be carried out through a variety of means, likely to include bilateral engagement, continued close engagement with the trade bodies, and industry events.

We will continue our work to support firms' embedding activities in the run-up to the July 2023 implementation deadline. Our programme of communications on the Duty will continue, with further events and updates to our dedicated webpages. We are working with an external research agency that will soon be sending a short survey to a sample of firms. This anonymised survey will help us understand the progress firms are making in implementing the Duty and will inform our ongoing communications to firms.

For more information:

- Read our **Finalised Guidance** Finalised Guidance (FG22/5)
- Consider our feedback on our **review of implementation plans**
- Visit our **Consumer Duty homepage** http://www.fca.org.uk/firms/consumer-duty where you will find additional information about the Consumer Duty, on-demand webinars and podcasts, and the option to sign up for email updates
- If you have any questions, you can **email us** at firm.queries@fca.org.uk

Yours sincerely,

Roma Pearson
Director, Consumer Finance
Supervision, Policy & Competition – Consumers and Competition

Annex 1 – How the Duty applies to firms in the MCCL portfolio

Firms in the MCCL portfolio represent a diverse set of business models and sizes, therefore we expect there will be a range of different approaches to implementation and what is proportionate, in terms of approach, will differ across the sector.

For further detail on adopting a reasonable and proportionate approach to implementation, please refer to the non-Handbook Guidance document.

The Duty should be considered alongside our other communications, such as 'Dear CEO' letters, and Supervisory Strategy letters, and supplement those key messages with a focus on delivering good customer outcomes.

Our Portfolio Strategy letter for the MCCL portfolio from June 2022 outlined several key risks of harm that remain relevant when considering the implementation of the Duty.

Evidencing good outcomes

Under the Duty, firms must understand and be able to evidence the outcomes their customers are getting. These are broader than the four specific outcomes set out in the Duty's rules and include the overall outcomes consumers receive from a product or service or when interacting with a firm, such as whether they are using the product or service as expected, the benefits they are receiving, and whether they are incurring harm.

The Duty rules therefore require firms to:

- **Monitor and review customer outcomes** to ensure that products and services are working as they and their customers expected and in a way that is consistent with the Duty

- **Identify where customers or groups of customers are not getting good outcomes and assess the reasons why**

- **Have processes to adapt and change** products and services, or policies and practices, to address the risks or issues identified and stop them recurring in the future

Firms' regular reviews under the Duty must provide an opportunity to identify further harms, including new and emerging harms.

Firms will need to use their judgement to identify relevant sources of data. There will be significant differences in the capabilities of firms and, in general, we would expect firms with more sophisticated data strategies to have more detailed monitoring strategies.

However, one key question all firms can ask themselves is whether they are using the same (or similarly sophisticated) management information capabilities as they use to inform other elements of their business, such as product development or sales, to also monitor customers' outcomes.

For further guidance on measures you could use, see especially Chapter 11 of the non-Handbook Guidance document.

Rather than replacing existing rules and guidance, the Duty seeks to overlay and supplement the existing rules and guidance, with an emphasis on firms' obligations to monitor, understand

and evidence the customer outcomes resulting in practice from their conduct and, where necessary, to improve those outcomes.

Expectations for Board oversight

Your firm's Board or governing body will need to monitor whether customers are getting good outcomes and whether further action is needed to comply with the Duty. At least once a year, the Board or governing body should review and approve an assessment of how well the firm is complying with the Duty. It should also make sure your firm's strategies, governance, leadership, processes, and people policies (including incentives at all levels) lead to good outcomes for customers.

For further guidance on our expectations on monitoring and governance, see especially Chapter 13 of the non-Handbook Guidance document.

Annex 2 – Key things for firms in the MCCL portfolio to consider

This annex discusses the credit card and personal loan lending activity of firms in the MCCL portfolio.

The Duty sets out the positive and proactive expectation we have of firm conduct, and our desire for firms to think more about consumer outcomes and place consumers' interests at the heart of their activities. These outcomes relate to:

1. **Products and services**

   It is important that all lending products and services are fit for purpose and designed to meet the needs, characteristics, and objectives of the identified target market. The target market should be identified at a sufficiently granular level. Firms should carry out regular reviews to ensure products continue to meet the needs, characteristics, and objectives of the target market.

   Firms should ensure that the distribution strategy for lending products are appropriate for that target market, and that products are distributed to the customers they were designed for. Extra care should be taken where products are sold to customers outside the original target audience; for example, lending products being sold to a different cohort of customers with poorer credit scores, where the products may not be suitable for a particular customers' circumstances and may lead to poor customer outcomes.

   For more information, please see chapter 6 of the guidance on the products and services outcome.

2. **Price and value**

   We expect to see customer outcomes improve. This means paying a price for products and services that represent fair value. Firms should ensure that products do not have features that exploit customers who might have a limited ability to get produce or service elsewhere, e.g., by charging unjustifiably or unreasonably high fees or interest rates to groups, such as those with a poor credit history.

   Firms should consider their approach to affordability considering the Consumer Duty, in particular the requirement to avoid causing foreseeable harm. Inadequate assessment of affordability is predictably likely to cause customer harm.

   We want lenders to help deliver outcomes that ensure consumers do not become over-indebted by being given credit they cannot afford. We want to see lenders accurately assessing whether customers can afford increased credit, alongside their creditworthiness assessments.

   For example, our rules on persistent debt apply to customers who, over a period of 18 months or more, have paid more in interest, fees and charges than they have repaid of the principal balance on their card. Since the introduction of the measures to help customers in persistent credit card debt, firms have been engaging with a considerable number of customers in persistent debt to discuss the options available to them to pay down their debt within a reasonable period. Lending products should be designed to meet the needs and objectives of a specified target market and should be delivering fair value for customers throughout the lifecycle of the product.

Firms must assess whether there is a reasonable relationship between the price consumers are paying and the benefit they receive over time. Where firms charge different prices for different groups of consumers, all groups must receive fair value.

For more information, please see chapter 7 of the guidance on the price and value outcome.

3. Consumer understanding

The consumer understanding outcome aims to ensure that firms' communications enable customers to understand their products and services, at the point of sale and throughout the life of the product. Customers should also be supported by firms in their understanding of the options available to them and in their decision-making.

In the context of the current economic environment, three examples where this is particularly important include where customers are:

- experiencing or anticipating repayment difficulties
- coming towards the end of an incentivised rate (e.g., a 0% introductory APR Offer)
- repeat borrowing, or pursuing borrowing for consolidation purposes

Our rules already set out information that must be provided to customers in payment difficulties. But the Duty requires firms to go beyond compliance with this and to test, monitor and adapt communications to ensure they support customers' understanding and good outcomes.

The Duty expects communications to be tailored according to the complexity of the products and the characteristics of the customers intended to receive them, including characteristics of vulnerability. So, firms need to think hard about their customers and the information and support they need to make informed decisions. Firms will also need to test that information to see how it is likely to work, and subsequently monitor how well it is working in practice.

For more information, please see chapter 8 of the guidance on the consumer understanding outcome.

4. Consumer support

We want firms to provide a level of support that meets consumers' needs throughout their relationship with the firm. This means firms' customer service should enable consumers to realise the benefits of the products and services they buy and ensure they are supported when they want to pursue their financial objectives.

For example, Covid-19 led to a changing economic environment which in turn led to a significant growth in s75 CCA claims. A number of these claims also led to customer complaints, some of which went on to be upheld by the Financial Ombudsman.

Firms should deal with s75 liabilities appropriately, meeting valid claims and not subjecting customers to protracted claims processes leading to customer harm (financial or otherwise). Firms must also ensure that customers do not face unreasonable barriers, for instance when making a claim, or making a complaint.

In addition, ensuring that customers in financial difficulty receive fair and appropriate support remains a key priority for the FCA and a key outcome that the Duty seeks to enhance by ensuring that firms act in their customers' interests.

Against a backdrop of higher inflation and increasing interest rates, we are seeing an increasing number of customers facing difficult circumstances, personally and financially. Whilst our policy work on the Duty pre-dates the rising cost of living, this crisis underlines the importance of the standards and outcomes we expect under the Duty and provides further opportunity for the sector to build public trust. Our Dear CEO letter on the cost of living outlines these points in greater detail.

Under the Duty firms are required to avoid causing foreseeable harm to customers. We know that customers in financial difficulty are more likely to have characteristics of vulnerability, and that poor treatment of customers in this situation is likely to cause harm. The Duty makes clear that firms must provide support that meets the needs of customers, including those with characteristics of vulnerability, throughout the life of the product or service.

Firms need to be able to provide appropriate support to these customers through different channels or by adapting their usual approach. For example, some customers may be supported better through telephone channels, rather than automated means of providing services, such as chatbots, when discussing their options, or experiencing repayment difficulties. The level of service remains important and that the right systems and controls are in place to monitor service levels.

Please see chapter 9 of the guidance for more detail about the Consumer Support outcome.