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Dear CEO/Director,

Implementing the Consumer Duty in mortgage intermediaries

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 in the mortgage intermediaries portfolio 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 mortgage intermediary firms
- Our expectations for how mortgage intermediary firms should embed the Duty
- Feedback from our recent review of firms' implementation plans
- Our updated view of the key risks of harm posed by mortgage intermediaries and expectations

We expect the 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.

We have also reviewed the key risks of harm for firms in the mortgage intermediaries portfolio, their consumers, and the markets in which they operate as part of our supervision strategy review incorporating Consumer Duty considerations for this market. This follows on from our previous review, and our letter to you in October 2020. We have set out, in Annex 2, an updated view of the current key risks of harm and an overview of our supervisory strategy and programme of work.

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 comes into force for closed products or services.

How the Duty applies to mortgage intermediaries

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.

For the purposes of the Duty, firms will be treated as 'manufacturers' if they have a role in the design or operation of a product or service. As most mortgage intermediaries are responsible for the design and operation of their service, this means that relevant aspects of the Duty will apply to them.

As mortgage intermediaries are also distributors of financial products that are designed by lenders, they also have responsibilities to maintain, operate and review product distribution arrangements for the products they distribute (and may have more comprehensive responsibilities under the Duty).

We've set out some more information and examples about how the Duty applies to mortgage intermediary firms in Annex 1 to this letter. This includes consideration of distribution chains and examples of how the Duty's Principle, cross-cutting rules, and outcomes may apply to your portfolio.

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 a 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 mortgage intermediaries

It is for your firm to assess if it is currently providing customer outcomes which have gaps or fall short against the higher standards set by the Duty, and to identify what it needs to do to address those. Such gaps or shortfalls may be specific to your firm. However, at Annex 1 we highlight some aspects that we presently consider especially important for mortgage intermediary firms in general. At a high level these are the need for firms to:

- **Design services that meet the needs, characteristics and objectives of a specified target market.** Mortgage intermediaries should ensure that they understand the target market for which the product was designed by the manufacturer, and that its strategy for intermediating the sale of these is targeted at those whose needs, characteristics and objectives are met by the product or service.
- **Offer products and services that provide fair value with a reasonable relationship between the price consumers pay and the benefit they receive.** Mortgage intermediaries must obtain information from the manufacturer about the product such as a high-level summary of the benefits to the target market, information on overall prices or fees and confirmation that the manufacturer considers that total benefits are proportionate to the total costs.
- **Communicate in a way that supports consumer understanding and equips consumers to make effective, timely and properly informed decisions.** Mortgage intermediaries should provide product information which provides a balanced picture of costs and risks as well as the benefits of the product.
- **Provide support that meets consumers' needs throughout the life of the product or service that they provide.** For example, when using different channels in order to intermediate products, customers should be able to easily access and assess key information.

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 supervising mortgage intermediaries as they embed the Duty and to tackle key harms, as well as metrics to measure the impact of the Duty in the sector. Mortgage intermediaries 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.

We are also hosting a series of in-person events for mortgage firms across the UK between February and June 2023.

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** 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

Contact

If you have any questions, please contact your normal supervisory contact. This is the primary point of contact for your firm's interactions with the FCA. You can also email us at firm.queries@fca.org.uk. However, there may be times when your firm faces urgent issues of strategic importance. If this happens, please contact Costas Pittas on 0207 066 0042, or at costas.pittas@fca.org.uk . If not available, then please contact Gillian Small at gillian.small@fca.org.uk.

Yours sincerely,

Roma Pearson
Director, Consumer Finance
Supervision, Policy & Competition Division

Annex 1 – How the Duty applies to mortgage intermediaries

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 also introduces new rules and guidance to ensure that:

- A mortgage intermediary must ensure that it understands the target market for which the product was designed by the manufacturer, and that its strategy for intermediating the sale of these is targeted at those whose needs, characteristics and objectives are met by the product or service. Extra care should be taken, if the product is being offered to individual customers on the edge of the target market. For example, if lifetime mortgages are offered or sold to customers at the younger end of the age range and where alternative products exist that may lead to better customer outcomes (e.g. where interest is serviced, rather than rolling up).

  Firms should ensure that their relationships with other firms in the distribution chain do not serve the needs of the firms over those of the customers leading to poor customer outcomes, such as product recommendations or sales that are driven by commercial arrangements including commission levels.

- A mortgage intermediary must obtain information from the manufacturer about the product such as a high-level summary of the benefits to the target market, information on overall prices or fees and confirmation that the manufacturer considers that total benefits are proportionate to the total costs. It must also ensure that its own fees and charges offer fair value, and that payment of these does not result in the product or service ceasing to be fair value overall. Firms should not exploit customers by, for example, charging unjustifiably or unreasonably high fees or charges to more vulnerable groups of customers such as those with a poor credit history, or older customers.

- Product information should provide a balanced picture of costs and risks as well as the benefits of the product. For example, where a lifetime mortgage product may offer reduced (or no) monthly payments, the overall total costs and the compounding of interest may not meet the customer's needs, and an alternative product may still provide a better outcome. The Duty expects communications to be tailored according to the complexity of the products and characteristics of the consumers intended to receive them, including recognition of any characteristics of vulnerability.

- When using different channels to intermediate products, customers should be able to easily access and assess key information. We also expect customer support to meet the needs of customers with characteristics of vulnerability, who may have additional needs, or be at greater risk of harm if things go wrong.

  There are some segments of the mortgage market where customers are more likely to have characteristics of vulnerability. One example is second charge mortgages, where customers may be more likely to have characteristics of financial vulnerability due to affordability constraints or credit impairment. Another example is later life lending, through products such as lifetime mortgages and retirement interest-only mortgages. Both these product sets can have costs and features which customers may be unfamiliar with. It is vital for firms to consider how best to provide appropriate support, both at the point of sale, and over the term of the product or service provided including how this needs to be adapted for different types of customers.

- **Firms to be clear on their roles in the distribution chain and meet their commitments under the Duty**. Mortgage intermediaries need to consider their role, i.e. whether they are acting as a distributor or are co-manufacturers and distributors. A firm would be considered a co-manufacturer where they can determine or materially influence the manufacture of a product or service. This would include a firm that can determine the essential features and main elements of a product or service, including its target market.

Annex 2 – Key issues for firms to consider

Below are our expectations of firms and view of the key drivers of harm in the mortgage intermediaries portfolio, where relevant set out in the context of the Duty. We expect you to consider the degree to which your firm presents the risks we refer to in this Annex, review your strategies for mitigating them and be able to demonstrate that you and your senior managers are taking reasonable steps to mitigate these risks.

Products and Services

Unsuitable advice

As a result of the economic downturn and a change in risk appetite by lenders, some consumers may struggle to obtain mortgages, leading to an increased risk of some borrowers being sold products which are unsuitable and/or unaffordable.

Given the rising cost of living, there may be an increasing demand for advice for second charge and lifetime mortgages. It is important that the needs of consumers are fully considered as well as the costs and risks involved in these products. Rising interest rates and less disposable income may impact the suitability of some products for certain consumers.

Firms offering advice on lifetime products should consider the impact of increasing interest rates and the subsequent equity erosion in determining whether these products are suitable for consumers.

We are already reviewing the advice that lifetime mortgage intermediaries are providing and we continue to monitor the market to assess products are properly targeted, that consumers fully understand the implications of using a long-term product to meet their current needs and that consumers receive good quality advice.

Firms should therefore consider the above alongside their obligations under the Duty to ensure customers receive advice for products that meet their needs, and products are distributed to defined target markets, taking account of any increased risk of or foreseeable consumer harm associated with certain products and more vulnerable customers.

Mortgage intermediaries are required to have an appropriate distribution strategy for each product and to regularly review whether products are actually reaching the right customers.

Price and value

Excessive fees and charges

Advice that is unclear and not transparent and coincides with poor product design raises the risk that customers are charged fees and charges which they do not understand and that do not reflect fair value.

Both lifetime mortgage products and second charge mortgage products can have a significantly different pricing structure to standard mortgage products and different connected advice costs.

For example, the intermediary fee and procuration fee is often higher than those charged for intermediating a standard mortgage product.

Firms need to ensure they are providing consumers with the information they need to make informed choices and understand the costs involved.

MCOB 12 provides that firms must ensure that any regulated mortgage, home reversion plan and regulated sale and rent back agreement they enter into does not impose, and cannot be used to impose, excessive charges upon a customer. Where we see evidence of potentially excessive fees being charged, we will ask these firms to explain how these have been calculated.

Firms should consider their fees and charges in the context of the Duty and consider what steps they may need to take. In particular, firms should review their services and pricing to satisfy themselves that they are offering their customers fair value.

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.

Firms must also ensure that customers do not face unreasonable barriers, for instance when 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 recently published Dear CEO letter outlines these points in greater detail, and you can find further information for firms in our cost of living key documents.

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.

Mortgage intermediaries may be able to help by encouraging customers to contact their lenders for support if they start to experience difficulties repaying loans and by helping customers understand what types of debt help or money guidance are available.

Mortgage Fraud

We consider mortgage fraud to continue to be a key driver of harm. Firms with poor systems and controls are at risk of increasing fraudulent applications and those with poor cyber controls may be increasing the risk of consumer data being compromised.

All firms are expected to have appropriate controls in place to protect them from being used for financial crime. This also extends to having effective protection for its systems and customer data.

In some instances, we have seen that mortgage intermediary firms do not have sufficient systems and controls in place to mitigate against fraud. We have seen examples of firms being used to facilitate fraudulent applications – sometimes being complicit in these. We have also seen some firms using their know-how to abuse the system for their own applications.

Our website provides examples (financial crime, building cyber resilience, handling customer data) of what firms should consider to help them put adequate controls in place. These controls should be reviewed at regular intervals to ensure they keep pace with the changing financial landscape and methods that criminals use to obtain information.

Other priorities

In addition to the above key risks of harm, we would also highlight the following areas that firms should give due consideration to:

Appointed Representatives (AR) regime

We expect principal firms to have effective oversight of their ARs and ensure they are competent, financially stable and deliver good outcomes for consumers.

In August 2022, we confirmed new rules to strengthen the oversight of ARs by principals. Our rules came into force on 8 December 2022, which clarify and strengthen the responsibilities and expectations of principals. We require principals to provide more information on ARs including Introducer Appointed Representatives (IARs).

The changes we are making to the AR regime go hand-in-hand with the Consumer Duty rules published in July. If you are a Principal firm, you should ensure that you have appropriate controls in place to effectively oversee your ARs' activities and ensure that your ARs comply with the Duty. Principals should read our updated rules and expectations and take necessary steps to comply with the changes.

Environmental, social and governance (ESG)

Financial services and markets have a central role in the transition to a low carbon economy and a more sustainable future. The Government has committed to achieving a net zero economy by 2050. We will support the financial sector in driving positive change, including the transition to net zero. As part of this, we encourage mortgage intermediaries to have regard to the publications produced by the Climate Financial Risk Forum that we co-convene with the Prudential Regulation Authority and to the work of the Government's Transition Plan Taskforce, which is producing a 'gold standard' for transition plans.

Achieving a more diverse and inclusive financial services industry is an important part of the FCA's ESG priority. Diversity and inclusion furthers our statutory objectives and is a key part of a healthy culture. There is evidence that diversity of perspectives and thought, when part of an inclusive culture, results in better judgements and decision making. We have recently published a review of approaches to diversity and inclusion in a sample of regulated firms and we intend to publish a Consultation Paper (CP) this year. We encourage mortgage intermediaries to read and respond to the CP when it is published.