Supporting customers in financial difficulty

A summary of Policy Statement 23/9

The Financial Conduct Authority has issued PS23/9 finalised insurance guidance on supporting customers in financial difficulty. The guidance will become effective immediately after the Consumer Duty becomes effective on 31 July 2023.

This guidance replaces the ‘Covid guidance’ issued in November 2020 and will apply to all of a firm’s customers excluding contracts of large risks distributed to commercial customers. The FCA have made no distinction between essential and discretionary insurance products because the customers’ individual circumstances and preference will impact on the importance they place on their insurance or protection products and the degree of potential hardship they would suffer if they could not maintain their cover.

Whilst the new handbook entries are guidance only (i.e., not rules) it does set out the FCA’s view on the outcomes that firms should aim to achieve and action that should be taken to deliver good outcomes for customers experiencing financial difficulties.

This guidance sets out clear expectations on actions that firms should consider to support customers.

It complements:

1) Principle 12 – A firm must act to deliver good outcomes for retail clients.

2) The Consumer Duty obligations (PRIN 2A) including,

a. the cross-cutting rules (PRIN 2A.2),

b. the consumer understanding outcome (PRIN 2A.5),

c. the consumer support outcome (PRIN 2A.6), and,

d. the expected standards set out in PRIN 2A.7 i.e., the standard that could reasonably be expected of a prudent firm.

3) the customer’s best interests rule. (ICOBS 2.5-1)

The outcomes firms should aim to achieve

Where a firm identifies a customer in financial difficulty, the firm should:

1) provide or ensure that the customer is provided with good outcomes-focused support that is appropriate given the needs and characteristics of the customer to:

a. reduce the impact of the financial difficulty on the customer;

b. enable the customer to maintain an appropriate level of insurance that the customer can afford; and

c. reduce, as far as reasonably possible, the risk of the customer losing appropriate insurance cover that is important to the customer; and

2) ensure the customer has an appropriate level of information about the options available to them in good time and in an understandable format to enable the customer to make an informed decision.

The options available to, and the level of support reasonably expected to be provided to achieve the outcomes will vary, depending on the nature of the firm’s relationship with the customer, your role in the distribution chain, the type of and characteristics of the customer and the type of product.

The level of support needed for customers who have characteristics of vulnerability may be different from that for others; you should take particular care to ensure you act to deliver good outcomes for those customers. Firms should also consider their obligations under the Consumer Duty and their responsibilities in a product’s distribution chain.

When considering outcomes, you should also consider:

1. the purpose of the policy and the interests of all policyholders; and
2. whether there are any relevant duties or obligations the customers may owe to others in connection with the policy that should be taken into account. For example, where a property owner may be subject to a duty to leaseholders and others around adequate insurance cover being in place for the property.

Signposting

The FCA are expecting that all firms will take reasonable steps to make customers aware of and help them to understand, the support available to them if they experience financial difficulty, and also to enable those customers to easily contact you. This includes, but is not limited to:

1. including sufficiently prominent information:

a. in the firm’s general communications, including the firm’s website, software applications, letters, telephone recorded messages and other channels of communication;

b. in communications to customers which could be relevant to potential financial difficulties experienced by the customers – for example, in communications to customers about missed payments;

1. making it easier for customers to contact the firm when they need help by considering the different communication needs of customers (for example, those needing to communicate through channels other than electronic means, such as websites, webchats and email).

Where the firm has reason to believe that the customer is, or is likely to be, experiencing financial difficulty, the firm should take reasonable steps to make the customer aware of, and help them to understand, the support available (whether or not a customer has contacted the firm in relation to their financial difficulty).

Identifying customers experiencing financial difficulty

There are a number of circumstances in which you may have reason to believe that a customer is, or is likely to be, experiencing financial difficulty. In particular, you should include consideration of circumstances where:

1. customers contact the firm:
2. wanting to reduce their insurance cover (whether having paid in full or on a monthly basis); and/or
3. asking about their insurance cover in a manner that indicates they may have financial difficulties, or about premium payments, including where they have difficulty paying the premium;
4. customers have missed payments, even where they have not contacted the firm about possible financial difficulties. A firm should not cancel a customer’s policy solely because of missed payments without first considering options to support the customer;
5. there are other indications (whether the customer has contacted you directly or not) that the customer is, or is likely to be, experiencing financial difficulty (for example, where the customer has requested cancellation of insurance cover that is important to the customer).

Options firms should consider

Options which firms should consider to ensure they meet the relevant obligations under the rules, including to act to deliver good outcomes (which may be used in combination with each other), include but are not limited to:

1. whether there are other products that provide an appropriate level of insurance cover for the customer at a price the customer can afford and revise the existing cover accordingly.
2. adjusting cover to take account of the change in the customer’s financial circumstances. This could be done on a short-term basis (affecting a period within the policy cover period) or for the longer term (affecting the entirety of the remainder of the policy cover period).
3. working with customers to help them avoid the need to cancel cover that is important to them.
4. re-assessing the risk profile of the customer. It might be that some customers’ risk profiles have changed since purchasing the policy and customers could potentially be offered lower premiums.
5. considering whether it is appropriate to require the customer to pay all contractual fees or charges in circumstances where the firm not relying on these contractual provisions would be needed to provide fair treatment in the customer’s best interests.
6. considering whether in the circumstances it would be appropriate to refer the customer to another firm in the distribution chain who is in a better position to support the customer. Firms should not push the onus to provide support onto other firms where it is not appropriate to do so.

For shorter-term adjustments, you should take reasonable steps to ensure that you reassess the customer’s situation when that short-term period comes to an end to ensure the customer continues to have an appropriate level of insurance. For example, by introducing an expiry date for any changes to a policy and reviewing the situation on expiry, or by inviting customers to contact you when their financial circumstances have improved sufficiently.

Depending on the circumstances, options could range from consideration of a single policy to a more holistic approach considering all the policies a customer has with your firm. You should consider if it is appropriate to take steps for all policies that the customer holds with your firm.

When setting out the options available to a customer, you should include an appropriate level of information about each option, including:

1. where the option includes possible changes to insurance cover or to a different policy, what the possible changes are, the effect of the changes on the customer, the period of time the changes might apply for, the main exclusions where claims would no longer be able to be made, and the change in the costs to the customer or to their payment plan,
2. the effect on premiums paid and still due, and on any interest owed, and
3. any cancellation or adjustment fees and charges associated with the options.

Firms are reminded that other rules in ICOBS – for example, those relating to specifying the demands and needs of the customer (ICOBS 5.2.1R), the appropriate information rule which applies at all of the different stages of a contract (ICOBS 6.1.5R), and renewal (ICOBS 6.5) – may also be relevant to the firm in relation to the options available to the customer.

You can read the full policy statement [here](https://www.fca.org.uk/publications/policy-statements/ps23-9-finalised-insurance-guidance-supporting-customers-financial-difficulty).

If you have any questions, please contact a member of the Cobra Network Compliance team.