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UK Financial Conduct Authority consults on payments, e-money and other firms to comply with “Consumer Duty”

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On 7 December 2021, the FCA published a second consultation paper (CP21/36) on the proposed "Consumer Duty" (the "Second Consultation"). The FCA's first consultation on this topic (CP21/13) was published in May 2021 and outlined some high level proposals to deliver the following:

- a new Consumer Principle that provides an overarching standard of conduct;
- a set of crosscutting rules, and
- outcomes that support the Consumer Principle by setting expectations for firms’ cultures and behaviours.

The Second Consultation followed on from the FCA’s first consultation and provides more detail on the above, including:

- key feedback to the first consultation and an analysis of responses received;
- revised proposals for a new Consumer Duty, which include proposed draft Handbook rules and guidance, and
- cost benefit analysis.

The FCA is also consulting on non-Handbook guidance to help firms comply with the proposed obligations under the new Consumer Duty.

The purpose of the Consumer Duty is to drive a change in culture at firms and to prevent harm. The FCA wants firms to put consumers first and will hold senior managers accountable where this is not the case. The FCA considers that this will promote healthy competition, support innovation and ensure services and products meet the needs of consumers.

The Second Consultation will be of interest to a wide range of market participants, including payment services firms and e-money institutions, as well as consumers and consumer groups. The FCA is expecting responses to the Second Consultation by 15 February 2022 and expects to publish a policy statement, containing final rules, by 31 July 2022.

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