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PRIVILEGED AND CONFIDENTIAL

Consumer Duty: final rules published

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Agenda

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- 5 What's changed
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Lorraine Johnston
Partner
T: +44(0) 207 859 2579
E: Lorraine.johnston@ashurst.com

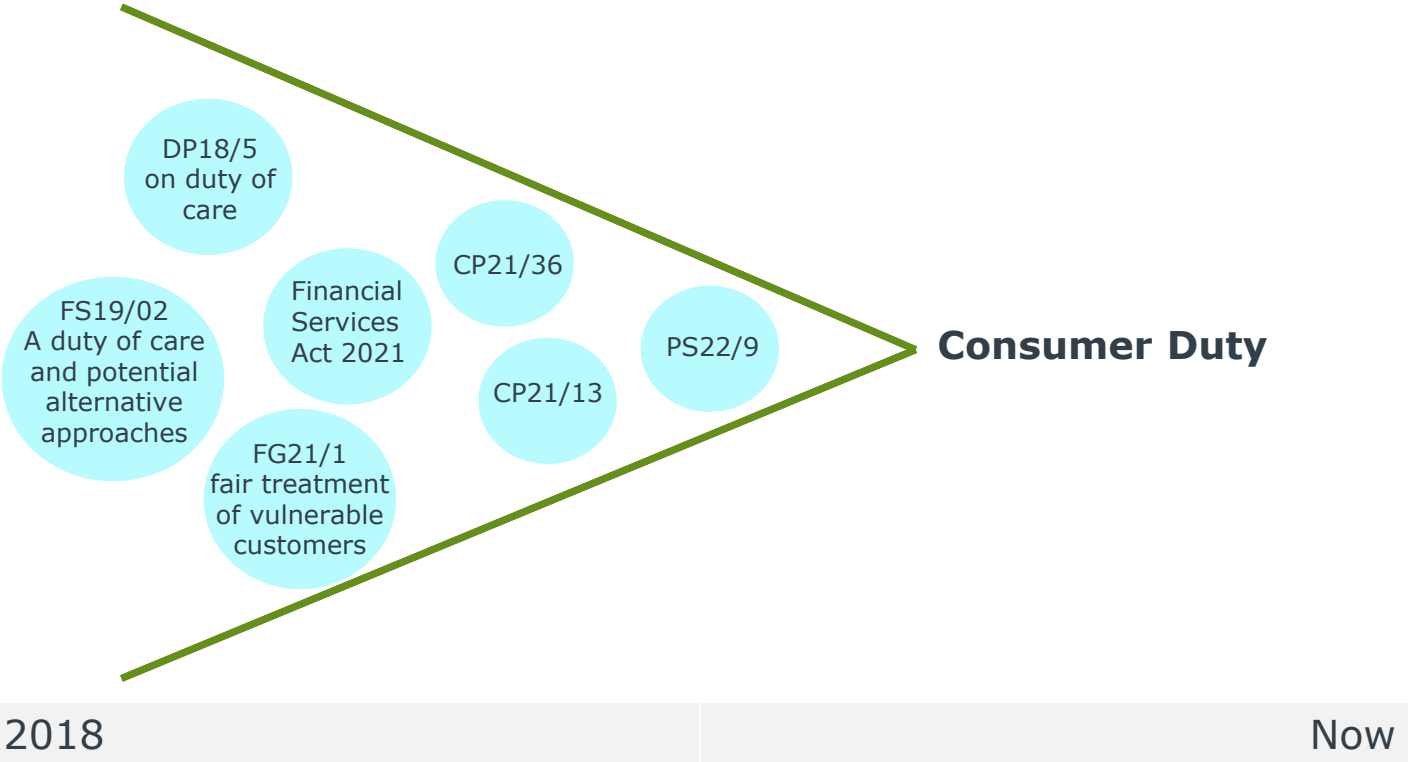


David Capps
Partner
T: +44(0) 207 859 1397
E: david.capps@ashurst.com



Emily Lemaire
Solicitor
T: +44(0) 207 859 3184
E: Emily.lemaire@ashurst.com

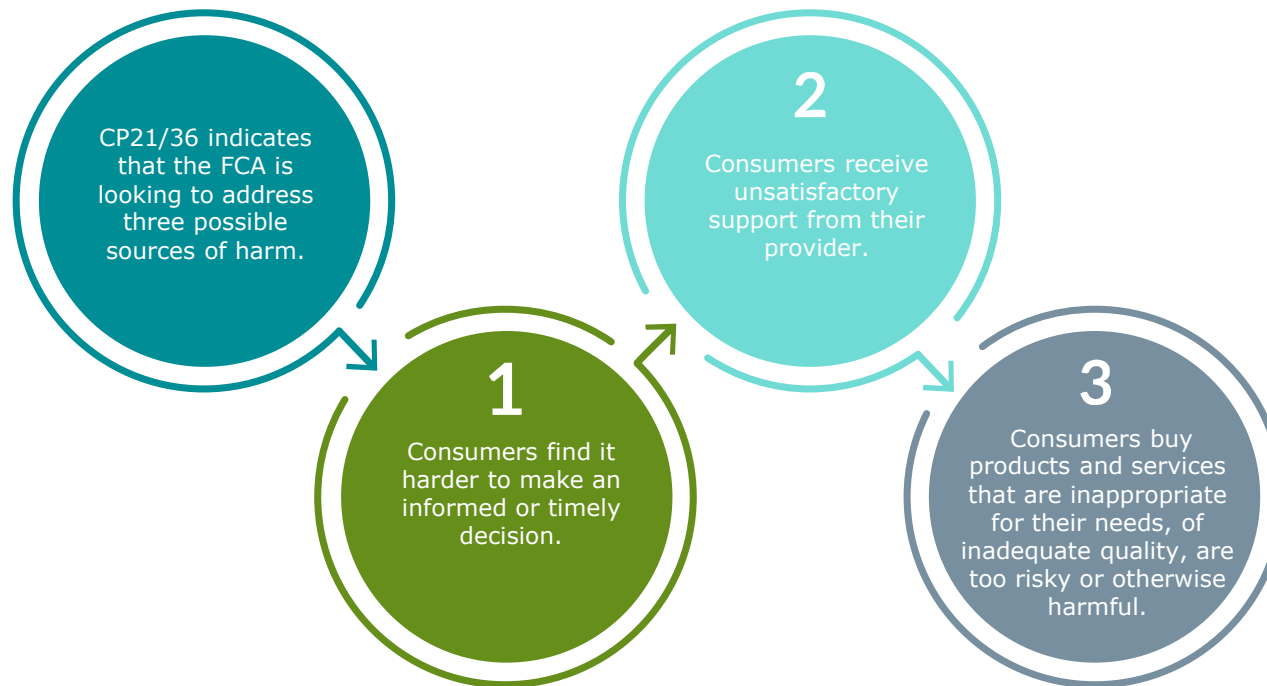
How did we get here



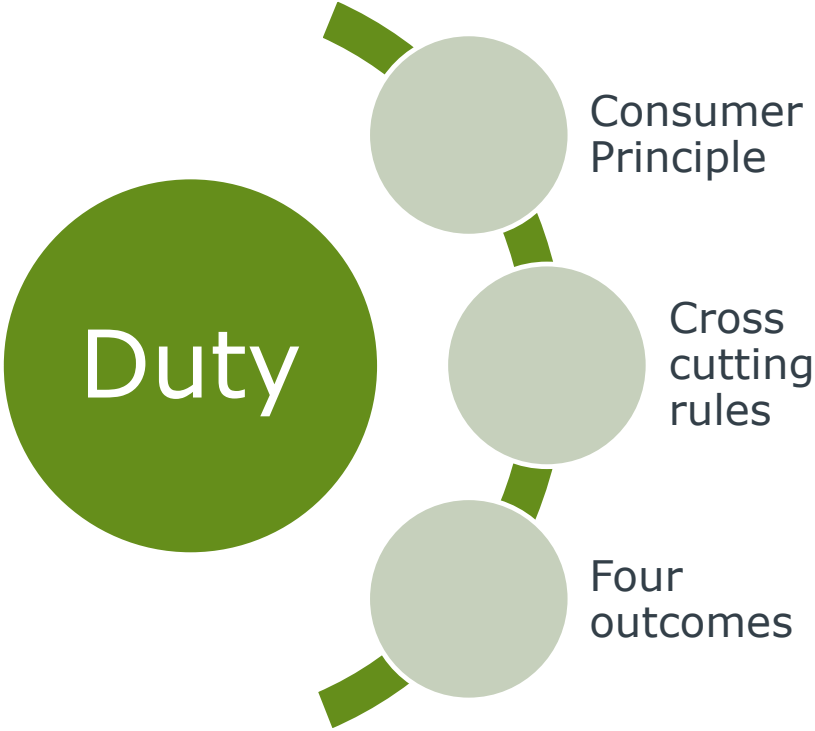
New Consumer Duty

WHAT IS THE NEW CONSUMER DUTY?

The FCA's proposals for a Consumer Duty aim to strengthen the outcomes delivered for retail clients. The focus is on supporting and empowering customers to make effective investment decisions and avoiding foreseeable harms at every stage of the customer relationship.

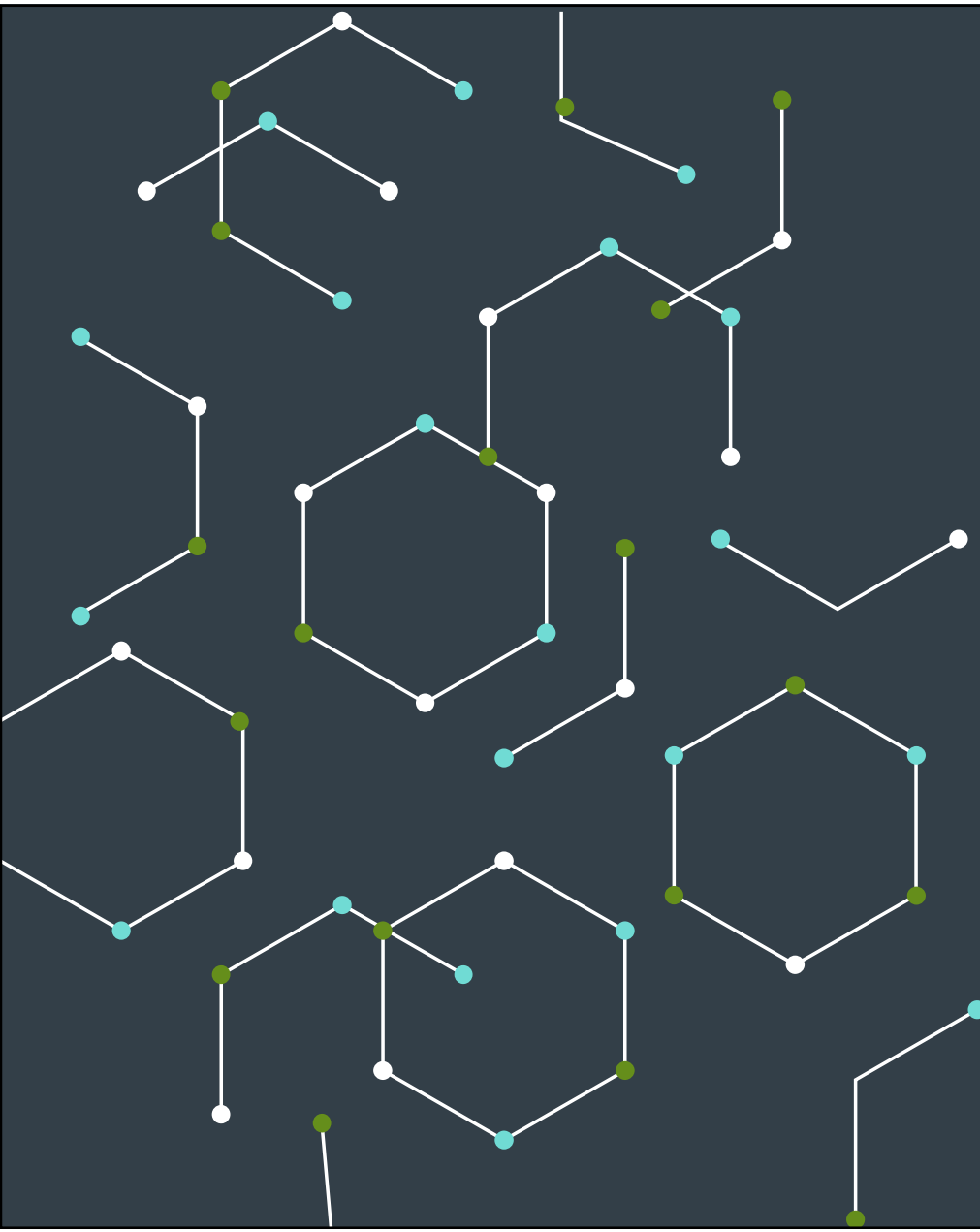


Expectations of firms under the Consumer Duty



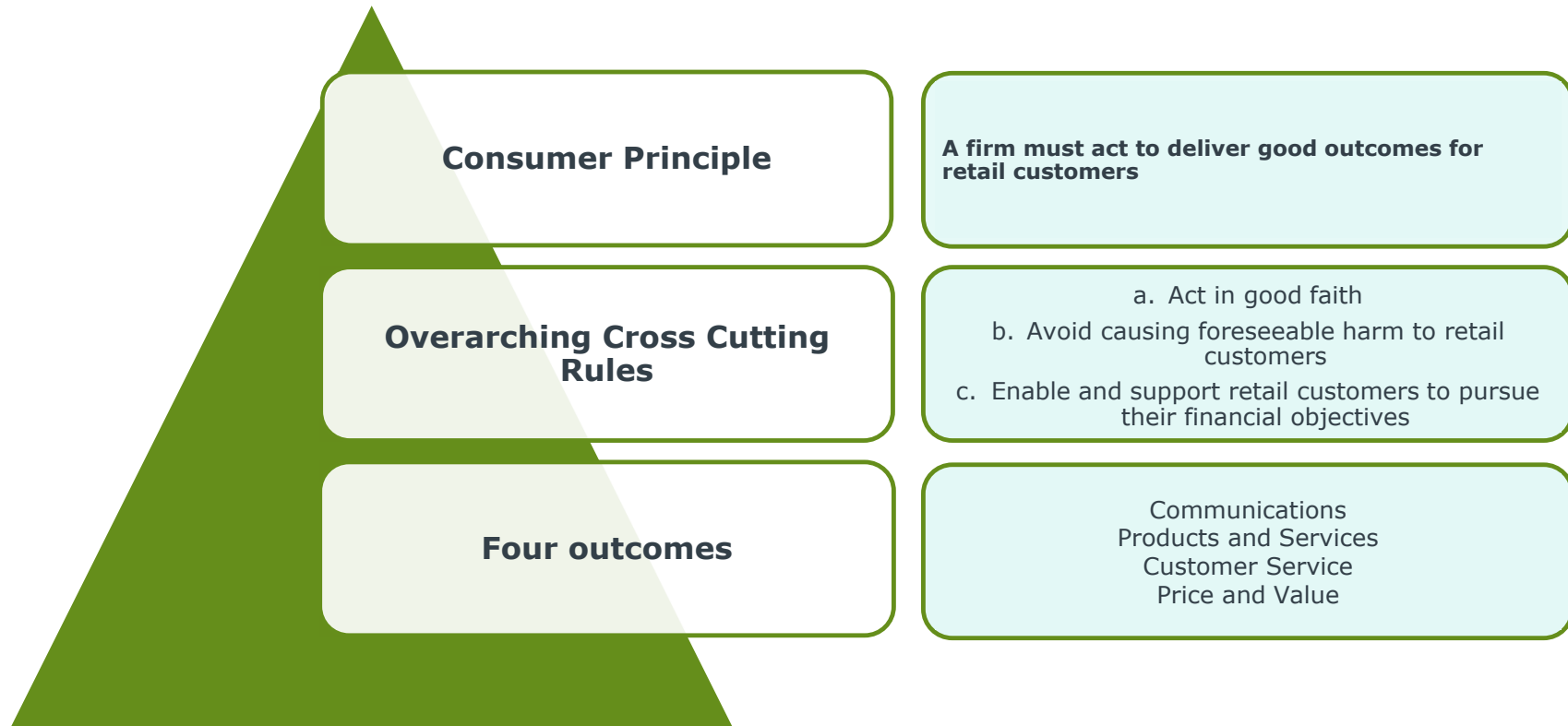
"[Our] rules require firms to **consider the needs, characteristics** and **objectives** of their customer – including those with characteristics of **vulnerability** – and **how they behave** at every stage of the customer journey.

As well as **acting to deliver** good customer outcomes, firms will need to **understand** and **evidence** whether those outcomes are being met.



Consumer Duty framework

Consumer Duty overall structure



Consumer Principle

**New Consumer Principle:
A firm must act to deliver good outcomes for retail customers**

PRIN 6: a firm must pay due regard to the interests of its customers and treat them fairly

PRIN 7: A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading

Where the Consumer Duty applies...

Where the Consumer Duty does not apply...

PRIN 6 and PRIN 7 disapplied

**PRIN 6 and PRIN 7 applies
(e.g. certain SME and wholesale business)**

Cross-cutting rules and the Reasonable standard



Four outcomes

Products and services outcome

Products and services are designed to meet the needs of consumers, and sold to those whose needs they meet

Consumer support

A firm must design and deliver support to retail customers so:

- a. It meets the needs of those customers (including vulnerable customers)
- b. It ensures products can be used as anticipated
- c. It includes appropriate friction in its customer journey to mitigate risk of harm
- d. Retail customers do not face unreasonable barriers



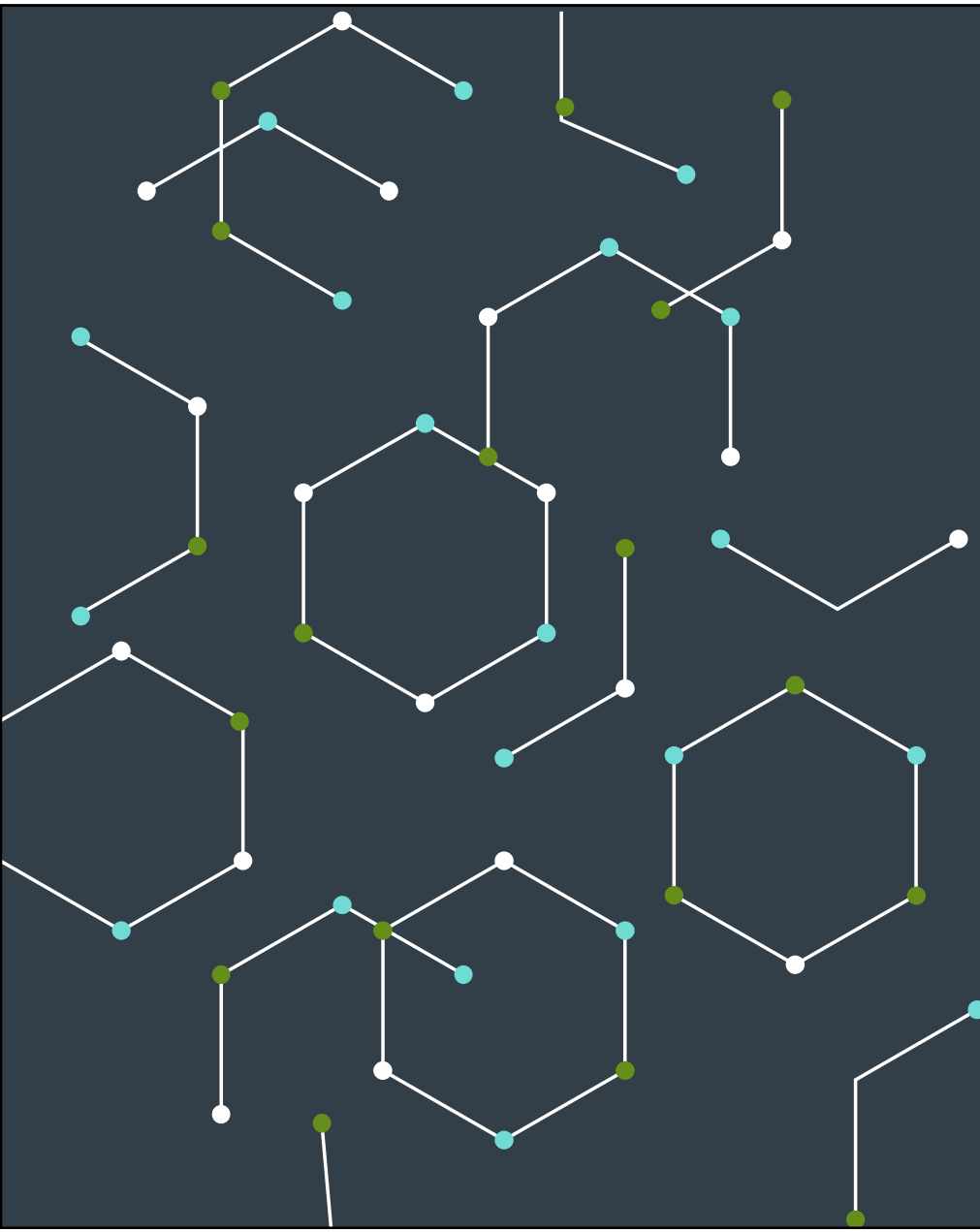
Price and Value

The price of products represents a fair value for retail customers in the target market for those products

Consumer understanding

Firm must support retail customer understanding so that its communications:

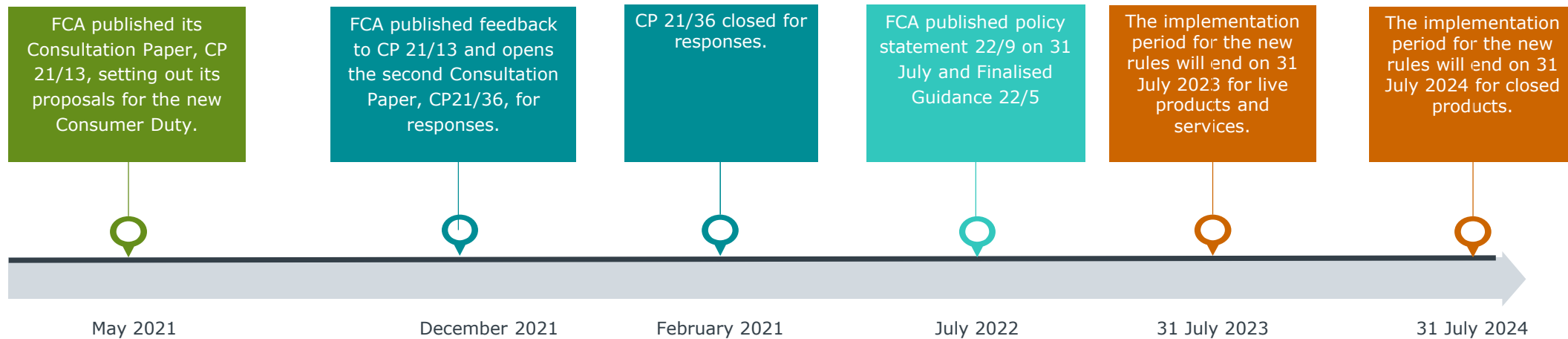
- a. meet the information needs of retail customers
- b. are likely to be understood by retail customers
- c. Equip retail customers to make decisions that are effective, timely and properly informed



Timeline

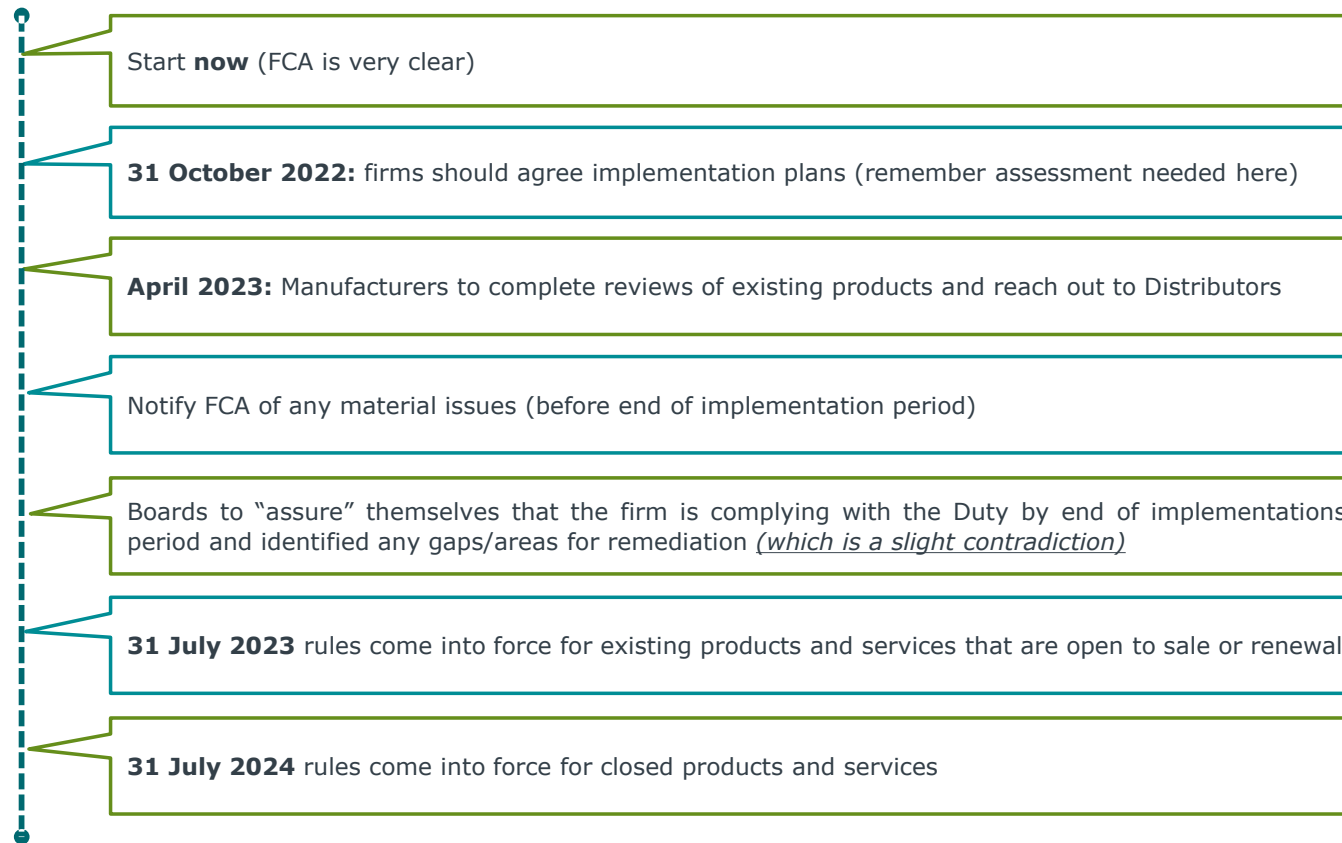
New Consumer Duty

TIMELINE



Key next steps plan

SEE CHAPTER 12 PS22/9

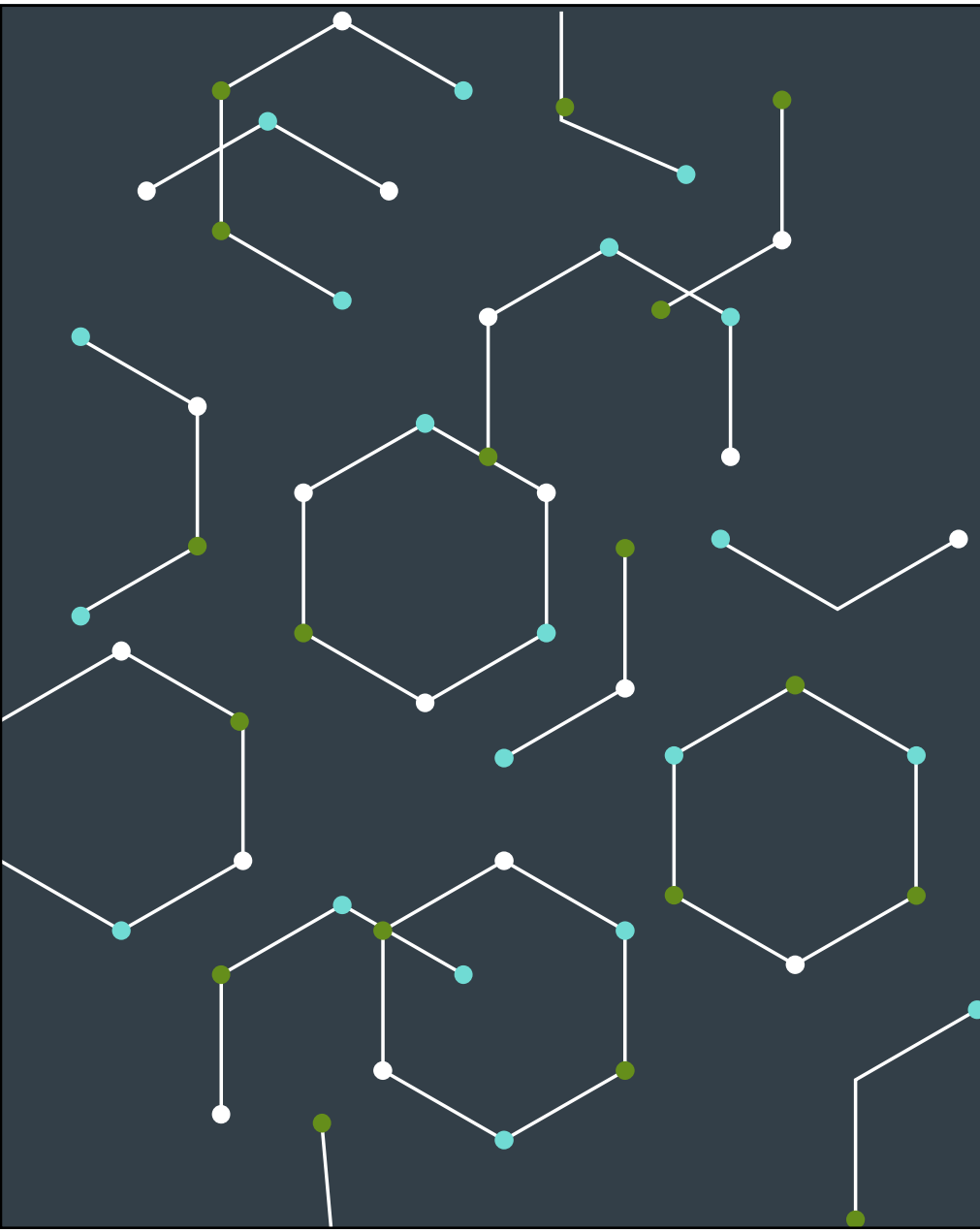


In the meantime...



“The Consumer Duty’s implementation period ends on 31 July 2023 for new and existing products or services that are open to sale or renewal and 31 July 2024 for closed products or services. However, Authorisations’ assessments of firms and individuals **is forward looking** (ie firms and individuals must demonstrate they can comply with our rules and guidance on an ongoing basis). So, **any firm or individual applying for authorisation (and those applying to vary their permissions)** will have to demonstrate that they can meet the requirements of the Consumer Duty, as they relate to them, **from now on.**”

<https://www.fca.org.uk/firms/authorisation/how-to-apply#consumer%20duty>



Scoping

Scope of the Consumer Duty: Who and What

WHICH CUSTOMERS?

Where COBS applies, all retail clients - all customers who are not professional clients.

Where ICOBS applies - all policyholders (note not a "consumer" in ICOBS)

For BCOBS activities, all banking customers - includes both consumers and micro-enterprises

In relation to managing a UK UCITS or an AIF or establishing, operating or winding up a collective investment scheme, a person who is a unitholder, an investor in an AIF or the beneficial owner of units or shares in a fund except professional

WHICH FIRMS/ACTIVITIES?

WHERE?

MANUFACTURERS IN SCOPE

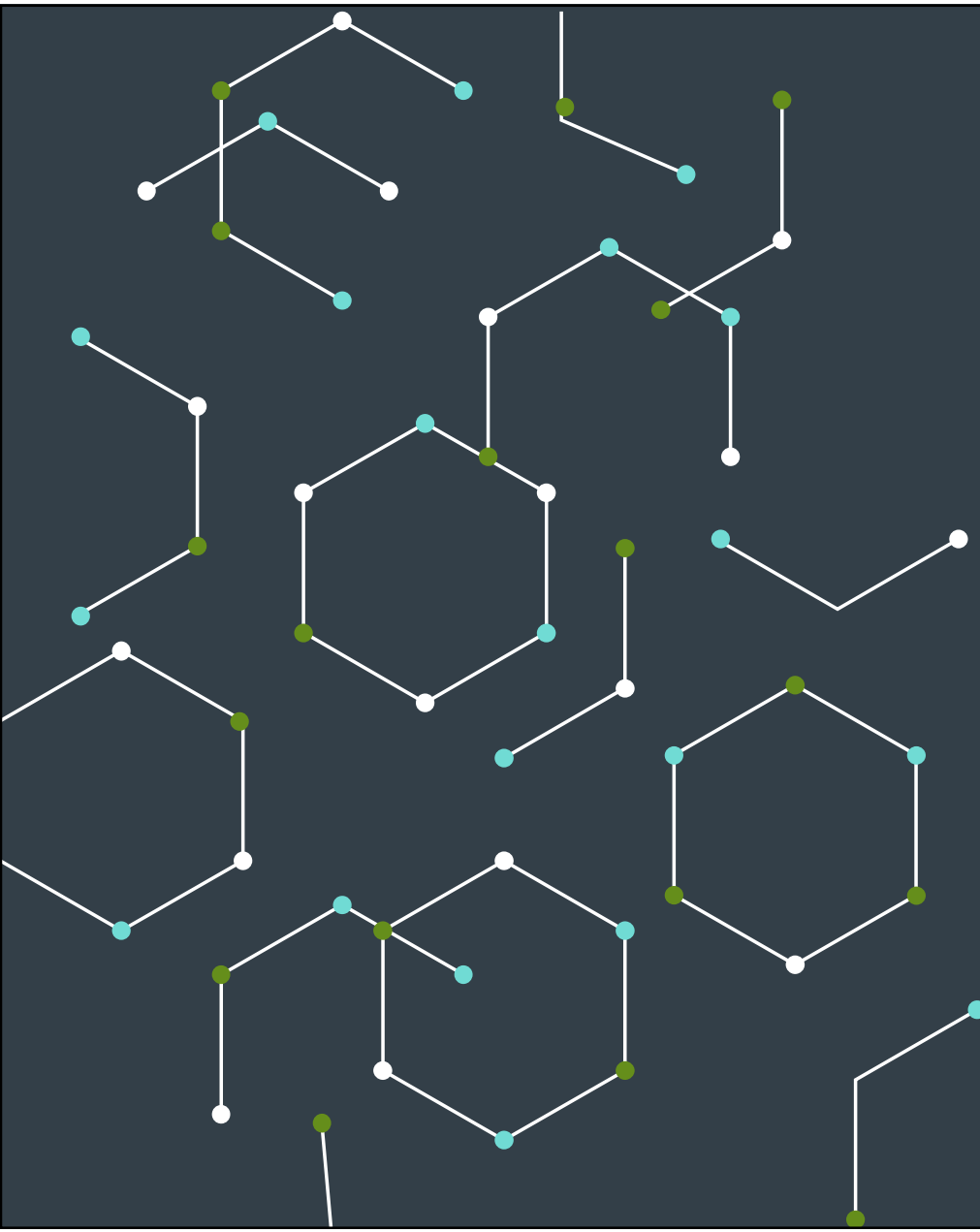
The Consumer Duty applies where a firm can, through its regulated activities influence material aspects of the design, target market or performance of a product or services that will be used by consumers. This will capture firms in wholesale markets as part of a retail distribution chain

FIRMS THAT PURCHASE A PRODUCT OR SERVICE BOOK

The FCA does not consider that it is appropriate to allow customers of books held by unregulated entities to be subject to lower protections, simply as a result of the sale of the book. The FCA considers that third party firms that operate existing product or service books to use their best endeavours to meet the requirements under the product and service outcome and fair value outcome.

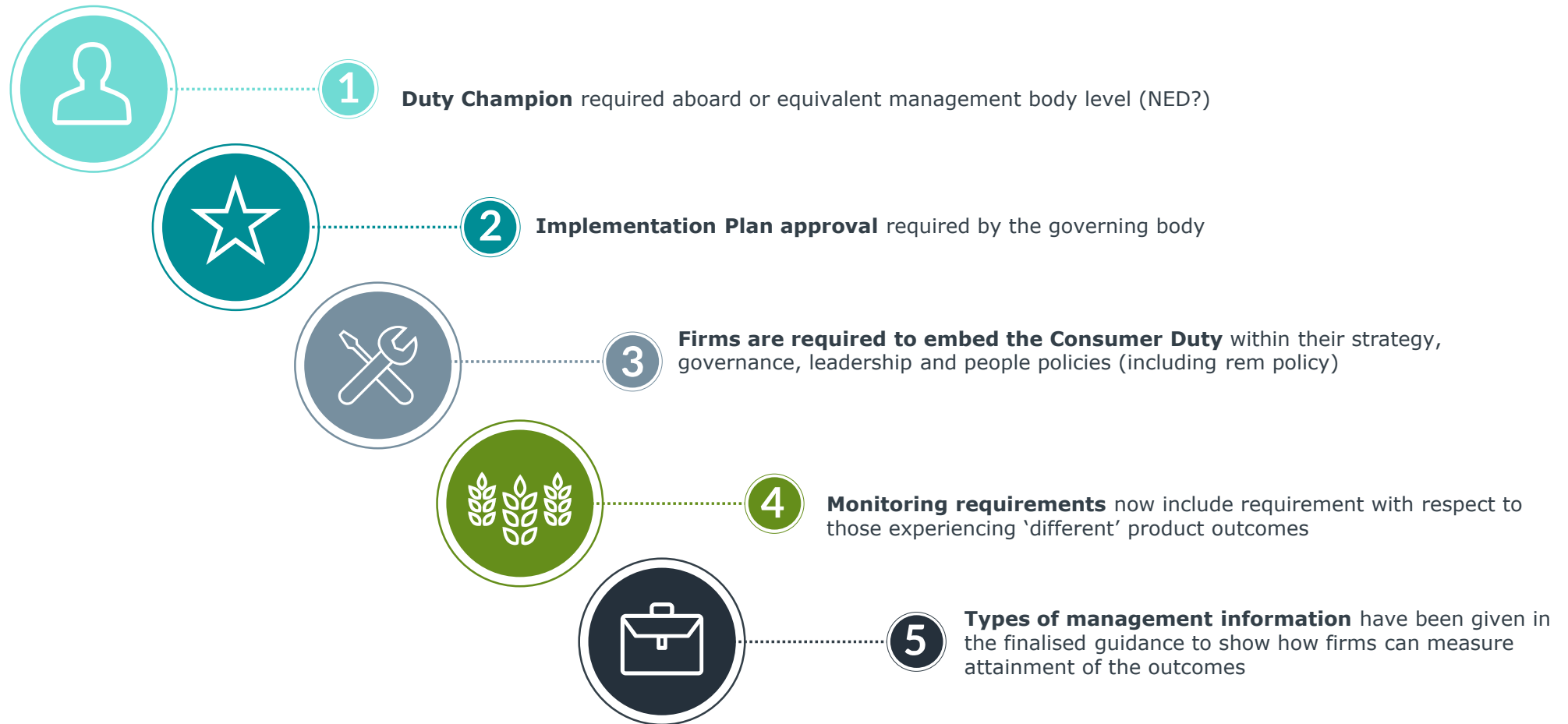
Consumer Duty: application to overseas firms

- Firms using OPE - not in scope
- Authorised branches - branch in scope
- TPR firms



What's changed

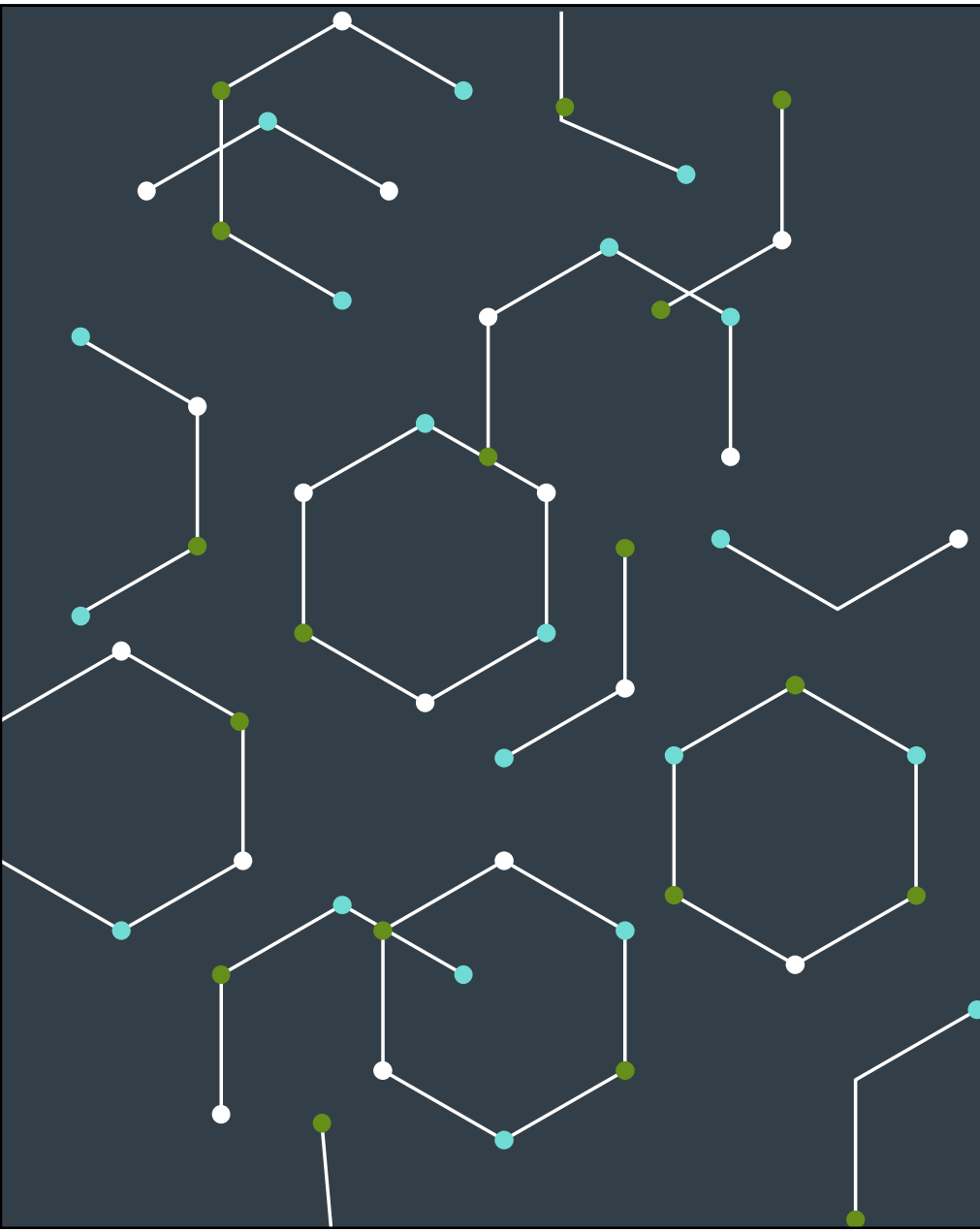
PS22/9 changes



PS22/9 changes

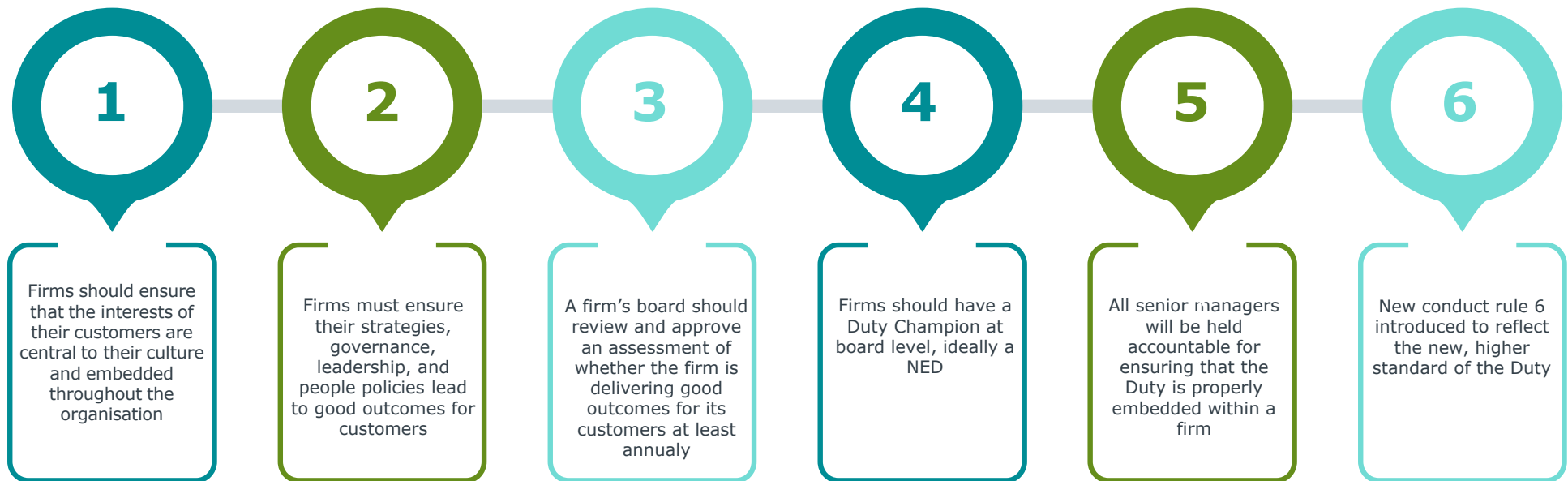
FOUR OUTCOMES

PRODUCT AND SERVICES OUTCOME	<p>Clarity has been provided:</p> <ol style="list-style-type: none">That firms are not subject to both PROD and new rules in relation to product and services outcomeThat a firm is not responsible for the activities of other entities in the distribution chain but new guidance sets out the type of information that ought to be reported by distributors to manufacturers and what manufacturers should be asking distributorsOn the types of questions the FCA may ask and how a firm may show it has complied with PROD.
PRICE AND VALUE OUTCOME	<p>The value assessment now includes additional factors including accrued costs and/or benefits, comparative pricing.</p> <p>The finalised guidance also sets out the types of data firms could use to monitor fair value and the key questions for firms that will be the FCA focus areas.</p>
CONSUMER SUPPORT	<p>There is now a requirement to include 'appropriate' friction to a customer journey.</p> <p>The scope of the consumer support outcome has also been clarified i.e. the rules do not apply where a firm faces another firm which is acting on behalf of a customer but there is an obligation to deal with that firm in a way that ensures it can comply with its obligations</p>
CONSUMER UNDERSTANDING	<p>The concept of "Average customer" has been clarified and references are now to 'retail customers in the target market'. The FCA notes that one in seven adults have literacy skills at or under an eleven year old, which is likely to be adopted as the expected approach</p> <p>"Testing" will become far more important, it is now required 'where appropriate'</p> <p>Likely to require review of terms of business and customer communications to ensure they are understood</p>



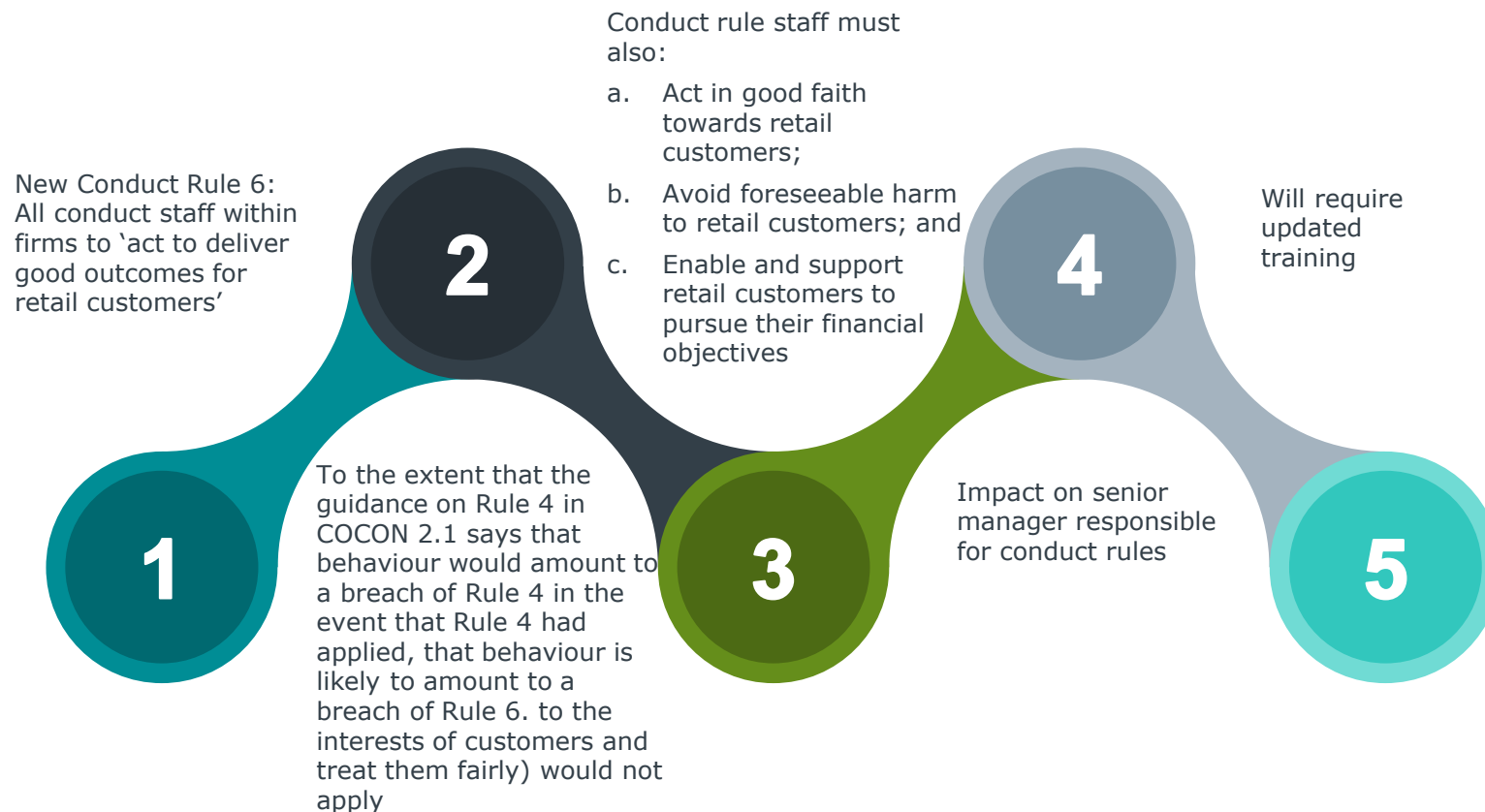
Governance requirements

Culture, governance and accountability



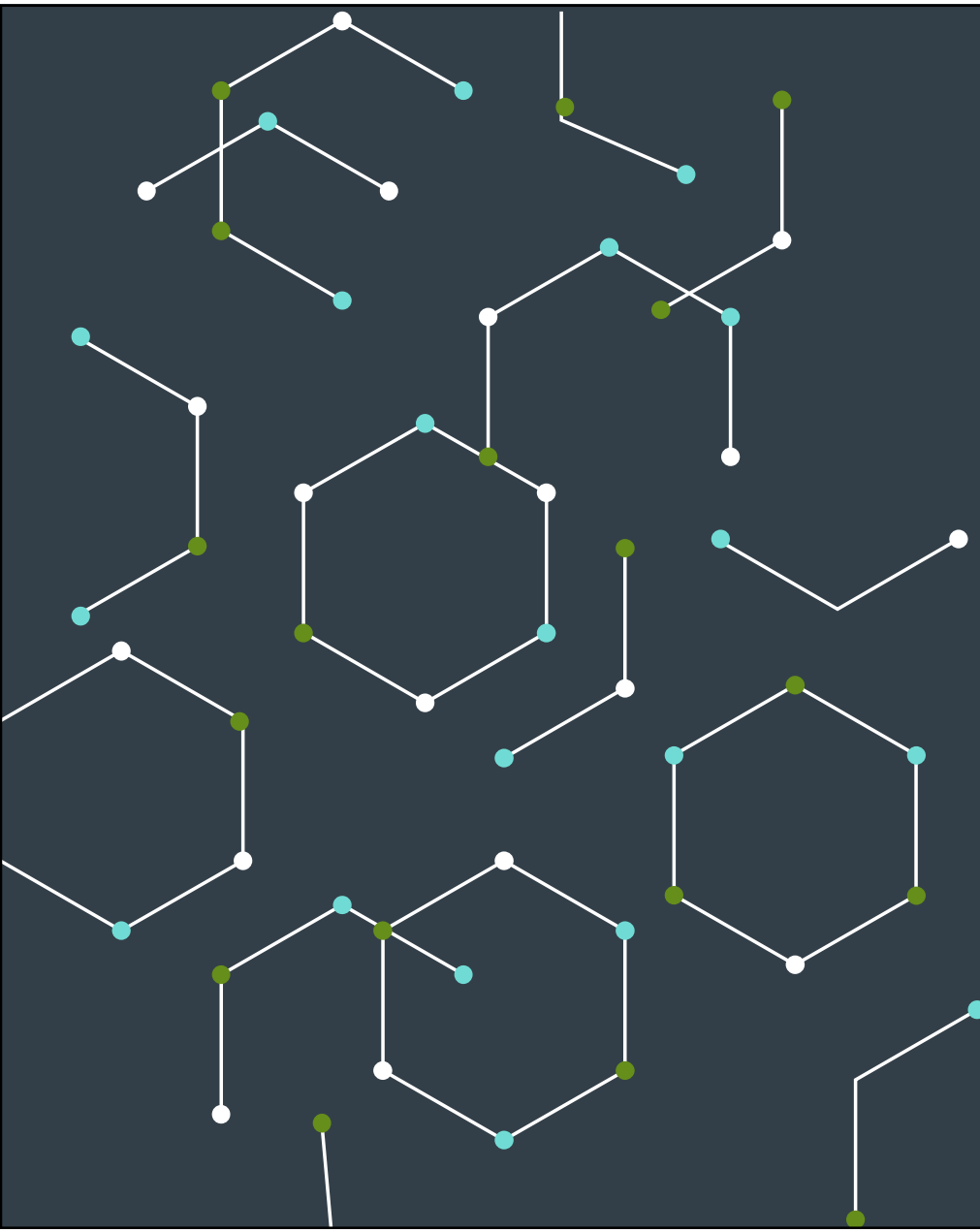
COCON amendment

SENIOR MANAGEMENT IMPACT



Please send any questions to
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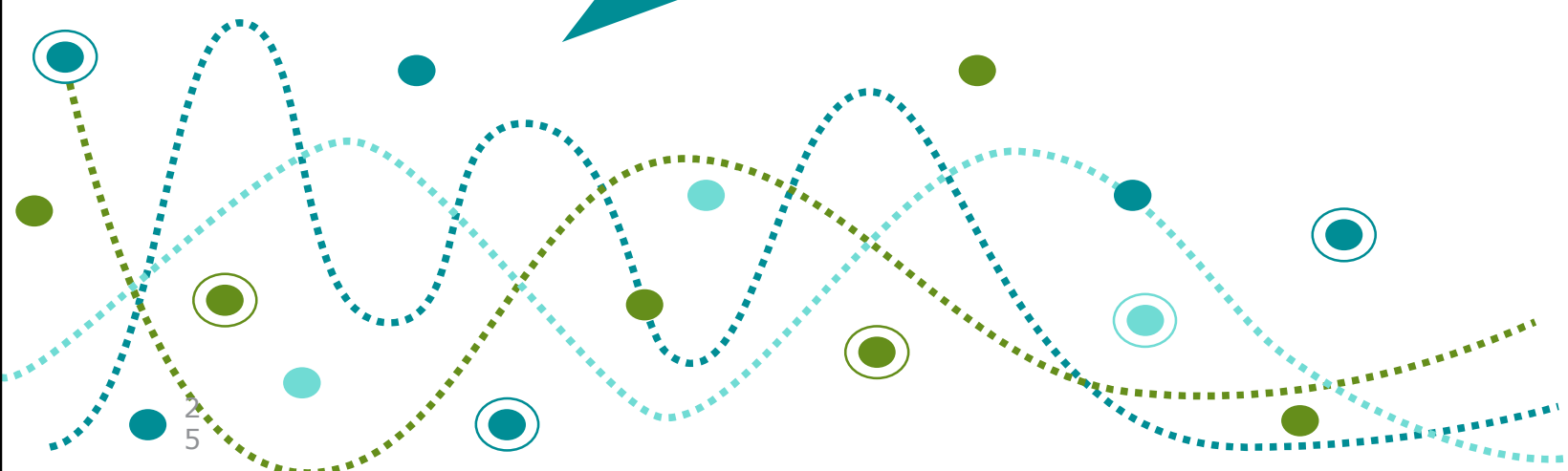


Focus on customers with
vulnerable characteristics

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"Our definition of vulnerability refers to customers who, due to their personal circumstances, are especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care."

FCA VULNERABILITY GUIDANCE (2021)



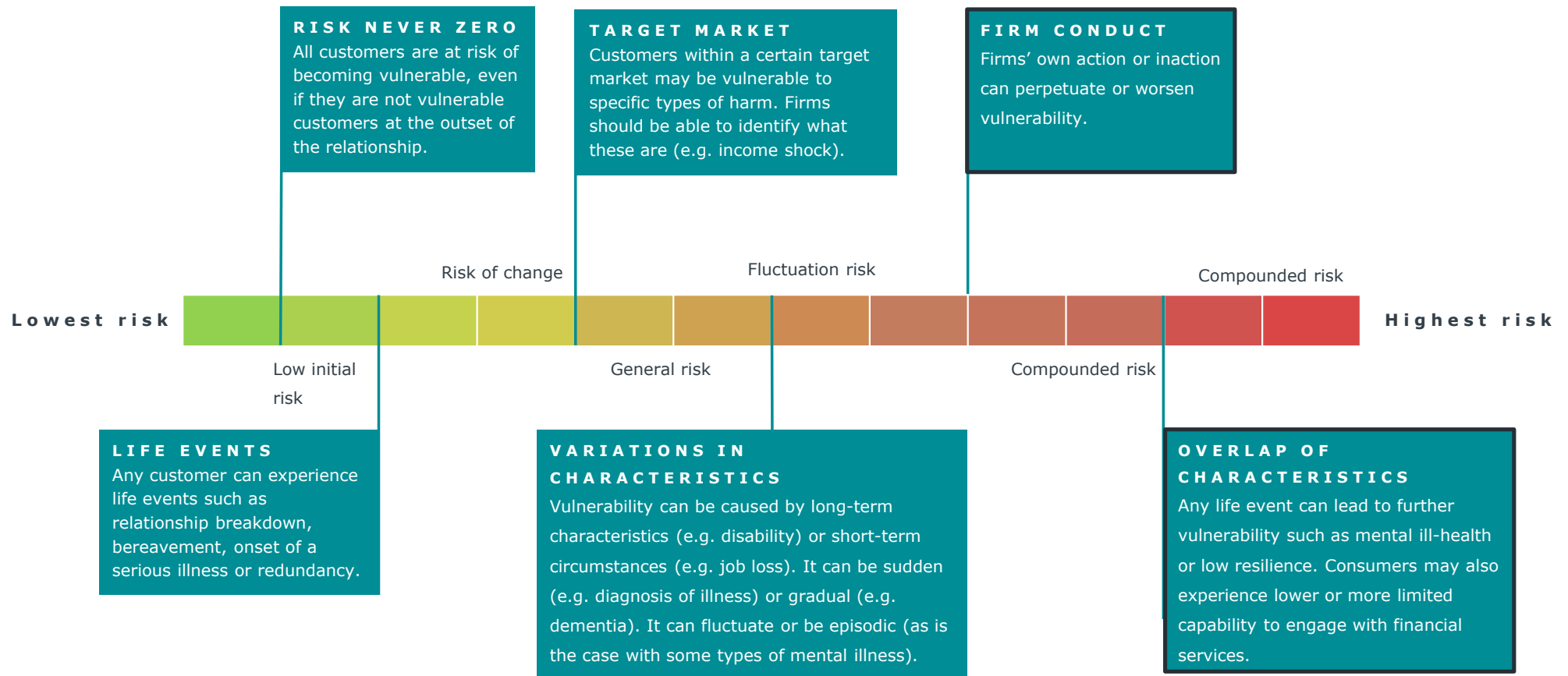
Drivers of vulnerability

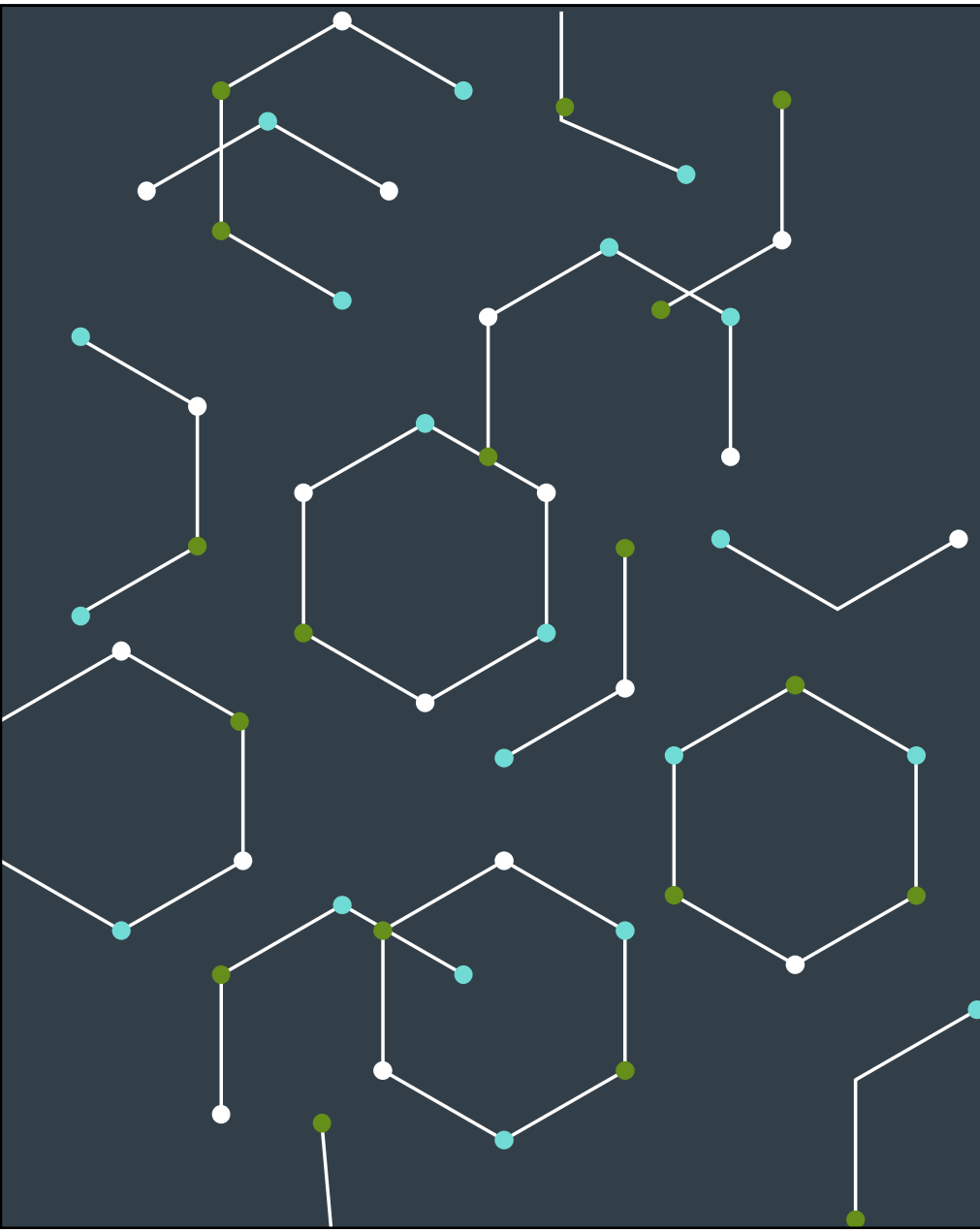
KEY CHARACTERISTICS TO LOOK OUT FOR

1 Health	<p>Defined as: health conditions or illnesses that affect ability to carry out day-to-day tasks.</p> <p>Includes: physical disability, severe or long-term illness, hearing or visual impairment, mental health condition or disability, addiction, low mental capacity or cognitive disability.</p>
2 Life Events	<p>Defined as: life events such as bereavement, job loss or relationship breakdown.</p> <p>Includes: retirement, bereavement, income shock, relationship breakdown, domestic abuse (including economic control), caring responsibilities.</p> <p>Also includes: other circumstances that affect people's experience of financial services e.g., leaving care, migration or seeking asylum, human trafficking or modern slavery, convictions.</p>
3 Resilience	<p>Defined as: low ability to withstand financial or emotional shocks.</p> <p>Includes: inadequate (outgoings exceed income) or erratic income, over-indebtedness, low savings, low emotional resilience.</p>
4 Capability	<p>Defined as: low knowledge of financial matters or low confidence in managing money (financial capability). Low capability in other relevant areas such as literacy, or digital skills.</p> <p>Includes: low knowledge or confidence in managing finances, poor literacy or numeracy skills, poor English language skills, poor or non-existent digital skills, learning difficulties, no or low access to help or support.</p>
5 Susceptibility	<p>Susceptibility to behavioural bias (i.e. the degree to which a consumer may be influenced to act without rational thought) is not a key driver identified by the FCA. However, it is an implicit driver of vulnerability that has come up frequently in FCA publications.</p>

Spectrum of vulnerability

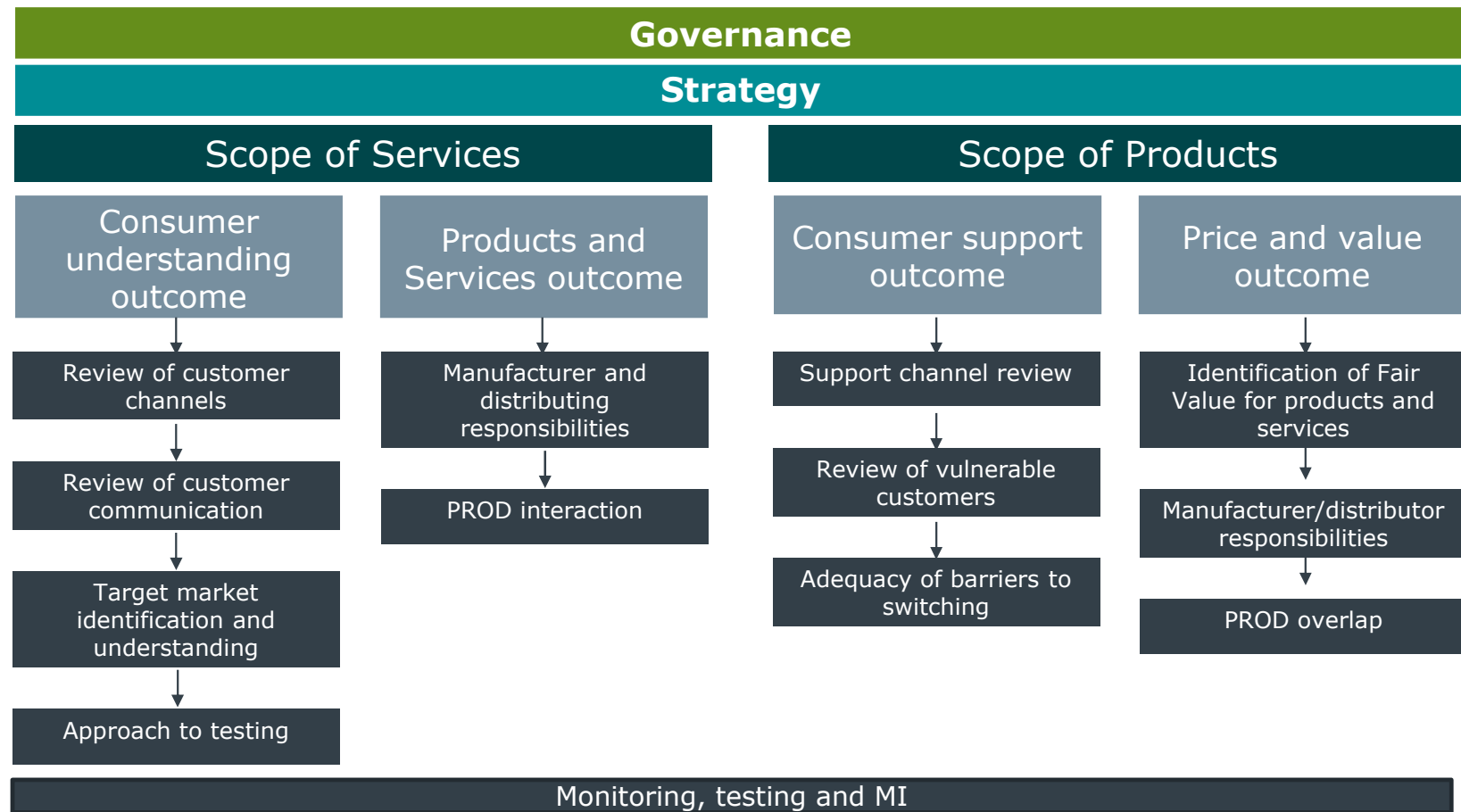
VULNERABILITY CAN OCCUR AT ANY POINT





What firms need to do now

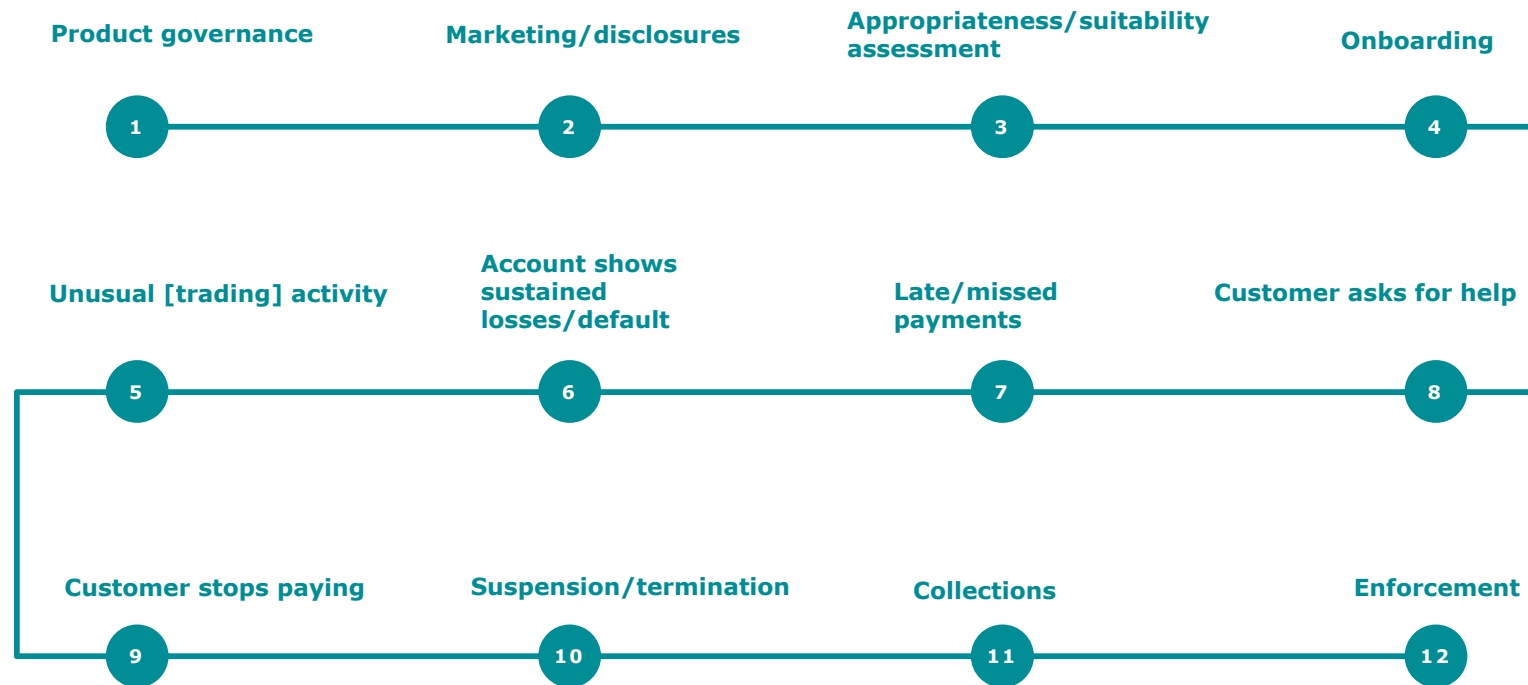
What firms need to do now



Some other likely actions

	Changes to management information		Amendments to TOBs
	Changes to governance arrangements		Review of friction in customer journey
	Target market identification		Manufacturing and distribution agreement review and amendment
	Product and service design review		Testing
	Skills and capability analysis of staff		HR policy review
	Monitoring complaints/FOS decisions		Customer channel review

Customer journey key focus areas



Bitesize focus sessions to follow

1.	CfD providers	2.	Structured products
3.	Banking / credit / mortgage providers	4.	Fintech / payment firms

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