Principles for ongoing customer support

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In this document, the AFM describes what financial companies can do in the interests of their customers to provide them with ongoing support in the management phase as well, so after selling the product or service and during its term. We do this by formulating a number of Principles. Through these Principles for ongoing customer support, the AFM outlines a long-term vision and wants to encourage financial companies to critically review and further develop their ongoing customer support. On the basis of these Principles, the AFM engages in a dialogue with the sector about this matter.

The Principles do not prescribe *how* financial or other companies should implement this long-term vision, and the AFM cannot enforce this. Moreover, the Principles do not replace statutory requirements and do not constitute any further detailing of these requirements. The aim of the Principles is to increase the AFM's transparency and to promote the dialogue between the AFM and the sector about this matter.

Importance of ongoing customer support

Consumers generally use a financial product or service to achieve a financial goal, such as accumulating or maintaining a wealth buffer (investment, insurance and savings products), covering risks (insurance products), paying for current or future expenditures (investment products, mortgage loans and consumer loans), or effecting payment transactions. This financial goal is based on a life goal the consumer aims to achieve, such as being able to continue to live in the house you own if things go wrong, or taking early retirement. For consumers, it's important that the chosen solutions, the product and/or services, subsequently remain adequate in terms of achieving or contributing to that life goal.

Changes in a consumer's personal life or in the financial markets may mean that previously chosen financial solutions are no longer appropriate to their situation and may even lead to them running into financial difficulties. Ongoing support helps consumers to keep their finances in good order, to become and remain more financially resilient, and may, where possible, offer them the prospect of a lasting solution when they run into difficulties.

Financial companies can go beyond what the statutory duties of care require

The Dutch Financial Supervision Act (*Wet op het financieel toezicht*, Wft) sets out specific duties of care for financial companies, including in the management phase. But when it comes to the management phase, financial companies can go beyond what these statutory duties of care require and do more to help their customers maintain a grip on their financial situation. By basing their approach on the interests of their customers, financial companies can promote a good, ongoing alignment between the customer's situation and needs and the product and/or services.

The AFM observes that a growing number of financial companies make this ongoing support a key part of their services, as they see this as a prerequisite for a long-term relationship with customers and for a healthy business model. At the same time, the AFM observes that further steps can be taken, particularly in the case of financial companies that currently focus primarily on attracting new customers.

The detailing of services in the management phase differs per company, as this depends on a range of aspects. These include the company's place in the distribution chain, the nature, complexity and terms of the products and services involved, the manner of payment for the services, the customer target group or the financial situation of the customers, and customers' wishes and needs. It starts with financial companies asking themselves to what extent they want to support their customers after selling them products and services, and how they can continue to support customers.

In view of the above, the AFM has formulated the following three Principles.

Principle 1: Formulate your ambition for customer care in the management phase and adopt an approach

The AFM believes it is important that financial companies reflect on what role they wish to play for their existing customers, and how they can help them to continue to meet their goals. This ambition determines how they structure their services in the management phase.

Principle 2: Make clear to customers what they can and cannot expect

The AFM believes it is important that customers are clearly informed of what they can expect and what expectations are unrealistic in good time, and that where possible, clear agreements are made and repeated as necessary during the management phase.

Principle 3: Implement this in practice and continuously review, evaluate and improve your services

The AFM believes it is important that financial companies review whether their services are actually helpful to customers in practice and continue to develop and improve their services in the management phase.

Notes to Principles for ongoing customer support

1 Introduction

Contents of these Notes

The following Notes provide general explanatory information about the Principles. These Notes are not intended to be exhaustive, nor do they prescribe how the Principles or the (statutory) duties of care should be implemented. The aim of the Principles is actually to encourage financial companies to critically review their services in the management phase and to determine how they can implement the Principles. It is up to each financial company to translate the Principles into its day-to-day practice on the basis of its own knowledge, skills and experience. The practical implementation of the Principles may obviously differ per service and product type. Therefore, the examples given in these Notes to the Principles are merely illustrative and aim to encourage further reflection on how to carefully provide services in the management phase.

Why formulate Principles for ongoing customer support?

Many statutory duties of care that financial companies are subject to focus on the phase up to and including the moment when consumers enter into an agreement, starting from the development of products and services through to their distribution and sale. The Financial Supervision Act contains fewer specific standards for the careful provision of services in the phase subsequent to the sale of a product or service and during its term. While this gives financial companies freedom to structure their services in the management phase as they see fit, the AFM has noticed this raises questions as to what can be expected from financial companies in the management phase with respect to customer's interests.[1]

The AFM takes the view that financial companies can also play a key role after an agreement has been entered into, so in the management phase, by helping customers. After all, it is in the customer's interest that a solution they opted for in the past continues to contribute towards the achievement of their financial goal. But financial decisions are often complex and difficult to fathom for consumers, so they don't always have a clear understanding of the fact that a solution they once opted for is no longer adequate, nor of when changes are needed and what needs to be changed. Particularly with long-term financial products, there is a high probability that changes will occur in the customer's situation, the product or market conditions at some point. When that happens, the product or service may no longer be adequate. By basing their approach on the interests of their customers, financial companies can each in their own way promote a good, ongoing alignment between the customer's situation and needs and the product and/or services.

Each of the parties involved can make their own contribution towards achieving this: the providers of financial products, who are responsible for the proper functioning of their products, the advisers, who know their customers' situations, and the customers themselves. By taking initiatives on this, financial companies strengthen their customer relationships and show a commitment to creating lasting added value for their customers.

[1] The lack of clarity applies in particular to mortgage loans, consumer loans, pensions and insurance policies. This is different for investment products, which are subject to more specific statutory duties of care in the management phase, particularly following the introduction of MiFID II.

Scope

These Principles and the Notes focus on financial companies (*financiële ondernemingen*) as referred to in the Financial Supervision Act (Wft).

Terminology used

Buyers of financial products and services can be referred to in a number of different legal and everyday terms. For the sake of readability, these Principles mainly use the legal term **consumers**, rather than the (non-legal) term **customers**. In this document, consumers and customers should be understood to also include 'clients' (with regard to insurance) and 'non-professional investors', which can also include certain companies.

In the Principles, we mainly use the general term **financial companies**. In certain cases, we also use other terms as defined in the Financial Supervision Act, such as 'provider' (*aanbieder*), 'investment firm' (*beleggingsonderneming*), 'adviser' (*adviseur*) and 'broker' (*bemiddelaar*).

2 Principles and statutory duty of care

The Financial Supervision Act and the underlying regulations contain various duty of care standards that financial companies must comply with. In addition to their duty of care under the Financial Supervision Act, financial companies have a civil duty of care under the Dutch Civil Code (*Burgerlijk Wetboek*, BW). This duty of care can be summarised as the duty of financial companies to conduct themselves with due care towards customers in a manner that may be expected of a competent and reasonably acting professional party.

Duty of care standards are the minimum conduct standards against which financial companies can be held accountable by customers or the supervisory authority. The financial duty of care has essentially been put in place to protect financial consumers. Consumers enjoy legal protection because they have less information and knowledge than financial companies. And while consumers also have a personal responsibility, financial companies have a duty of care that not only requires them as experts to protect consumers against their lack of specialised knowledge, but also prohibits them from abusing the lack of knowledge and uninformed behaviours of consumers. Therefore, financial companies must always consider what their consumers' interests are, and treat those interests with due care.

That said, many financial companies have actually adopted a service model based on 'care' that goes beyond the statutory duty of care. These companies are convinced that this service model is in the best interest of their customers and therefore also serves the long-term interest of their business. The Principles address the question of what more financial companies can do, beyond the minimum required by the statutory duty of care.

In these Notes to the Principles, we do not provide a description or overview of all relevant duties of care under the Financial Supervision Act that apply in the management phase. This is based on the fact that the details of the duty of care in the management phase may differ per product type. For example, compared to insurance products and loans, investment advice and asset management are subject to additional and more specific rules regarding the duty of care. In addition, the responsibilities of individual financial companies depend on the nature of their products or services. The AFM trusts that financial companies are familiar with the specific legislation and regulations to which they are subject.

Accordingly, the scope of the duty of care will in practice always depend on the specific circumstances of the case, such as the nature of the relationship, the complexity of the product or service, and the customer's knowledge and experience. Furthermore, the concept of duty of care is not immutable, but to some extent a reflection of the current social and legal standards. For example, social developments and increasing digitalisation are leading to significant changes in financial services. These developments also impact consumer protection. While the scope of the duty of care for automated services does not differ from that for traditional services, automated and semi-automated services present specific opportunities and risks.

The AFM regularly reviews the impact of new developments on consumer protection. These developments, such as the use of artificial intelligence and automated advice tools (robo advice) and the impact of climate change,[2] offer consumers new opportunities. Software, for example, can contribute to a more efficient design of aftercare. At the same time, it's important to stay abreast of new risks created by these developments, and the AFM will continue to share its insights about this in future.

3 Ongoing customer support

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Principle 3: Implement this in practice and continuously review, evaluate and improve your services
The AFM believes it is important that financial companies review whether their services are actually helpful to customers in practice and continue to develop and improve their services in the management phase.

Below, we give a number of examples of good practices to suggest aspects that companies could consider in their detailed implementation of the Principles. As mentioned before, the AFM does not give these examples to prescribe how the Principles or (statutory) duties of care should be implemented. The examples are merely illustrative and aim to encourage further reflection on how to carefully provide services in the management phase.

[2] See these reports: *Artificial intelligence in the insurance sector: An exploratory study*, De Nederlandsche Bank and AFM, 25 July 2019; and: *Impact of Climate Change on Non-Life Insurance*, AFM, 28 October 2021.

Disappointing product performance

Life insurance companies regularly inform their customers about the development of the value of their investment insurance product. But when consumers are informed that the development of the value of the product has been disappointing, there is a risk that they will fail to take timely action. In their role as providers, insurance companies normally have no insight into the individual situation of customers. However, insurers can ask themselves what information they have about customers based on the nature of their services and what can be deduced from that. For example, a life insurer can regularly analyse the composition of its insurance portfolio, breaking it down into risk categories on the basis of a number of characteristics, such as remaining term, age of the insured, annual premium and investment return. Depending on the risk category, the insurer can continue to inform customers about the performance of its investment product or deploy advisers to more expressly urge customers to take timely action.

Changes in customers' personal situation or wishes

Whether aftercare is necessary or desirable and the extent of any aftercare services will depend on several factors, including the customer's financial situation, wishes and needs, as well as the nature and complexity of the financial product or service. However, customers can agree with their adviser that no additional activities will be performed in the management phase; because they do not wish to have a periodical review of their financial situation with the adviser, for example.[3] The adviser should then discuss the consequences of this with the customer, explaining that the customer will need to closely monitor the accumulation of their wealth buffer, the affordability of their mortgage and the appropriateness of their insurance cover and will need to contact the adviser in good time or personally take action. However, an increasing number of advisers are making regular contacts with clients an integral part of their services. Digitalisation makes it possible to approach clients in a personal and informal way at relevant times to determine whether a discussion to review their financial situation is required. Some advisers, for example, use short online questionnaires on life events, or an app providing an overview of the customer's financial details (with the customer's consent), enabling quick periodical assessments of whether it would be appropriate to request a personal meeting with the customer to review their financial situation.

In the case of execution-only services, the provider, investment firm or broker will likewise need to make clear to their customers what they can expect and – even more importantly – what they cannot expect from this provider, investment firm or broker and when they should contact an adviser. For example, when customers take out an insurance product online, without having obtained advice, they generally don't make agreements with the provider or broker about a periodical review of their financial situation. However, even though no agreements are made on this, providers and brokers increasingly offer their customers online tools to assess to what extent the insurance product still contributes to the achievement of their goal. The AFM views this a positive development, but believes that even when no advice is provided, the need for due care in dealing with customers requires that customers are then clearly informed what services or support they can and cannot expect to receive.

Customers running into difficulties

In some cases, financial companies can foresee that customers will run into financial difficulties; for example, when monthly direct debits for the financial product are returned unpaid. It is in the interest of both the financial company and the customer that the risk of payment difficulties is identified early to avoid or limit the

[3] Statutory duties of care, such as the duty to inform about significant changes, can never be excluded from a financial company's services in the management phase.

costs of payment delinquency. Take the example of a mortgage provider that uses a predictive model to identify customers' risks of payment difficulties on the basis of short-term and long-term factors. The mortgage provider continuously reviews what data points are best suited to identify customers in a vulnerable financial situation. It can then follow up on this by actively approaching these customers through multiple channels to assist them with their financial situation. This enables the mortgage provider to minimise as much as possible the risk that customers run up problematic debts at a later stage.

When customers run into financial difficulties, due to rising costs of living, the loss of their job, the death of their partner or other reasons, this can have a big impact on their material circumstances and emotional wellbeing. In such situations, the financial company needs to observe due care in dealing with and supporting the customer and ensure that a lasting financial solution is found in consultation with the customer, where possible.

4 Follow-up steps by the AFM

This purpose of this document is to give the financial sector insight into what the AFM considers important with respect to services in the management phase and to facilitate the dialogue about this.

To this end, the AFM will take follow-steps in a number of areas. The AFM:
- will initiate a dialogue about these Principles with its external contacts;
- will continue to devote attention in its supervision to the statutory duty of care in the management phase;
- will continuously review the impact of new developments on the protection of financial consumers and will share the new insights gained from this;
- will initiate a dialogue with the financial sector and the legislator to explore what steps could be taken to help to ensure that consumers regularly give attention to reviewing their financial situation.

If you have any questions about this publication, or if any aspect of the relevant legislation and regulations is unclear to you or impedes your operations, the AFM will be happy to discuss this. Please send an email with your questions or comments to our Business Desk at ondernemersloket@afm.nl.

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As an independent market conduct authority, we contribute to a sustainable financial system and prosperity in the Netherlands.