



# AFM NED Conference

## Consumer Duty

9 June 2022



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# Welcome

# Agenda

- A new Consumer Duty – key FCA goals & expectations
- Impact on mutuals sector
- An approach to preparing for the Consumer Duty
  - Initial strategic diagnostic work
  - Gap analysis
  - Design
  - Implementation
- Next steps

# A new Consumer Duty – key FCA goals & expectations

# The case for change across Financial Services

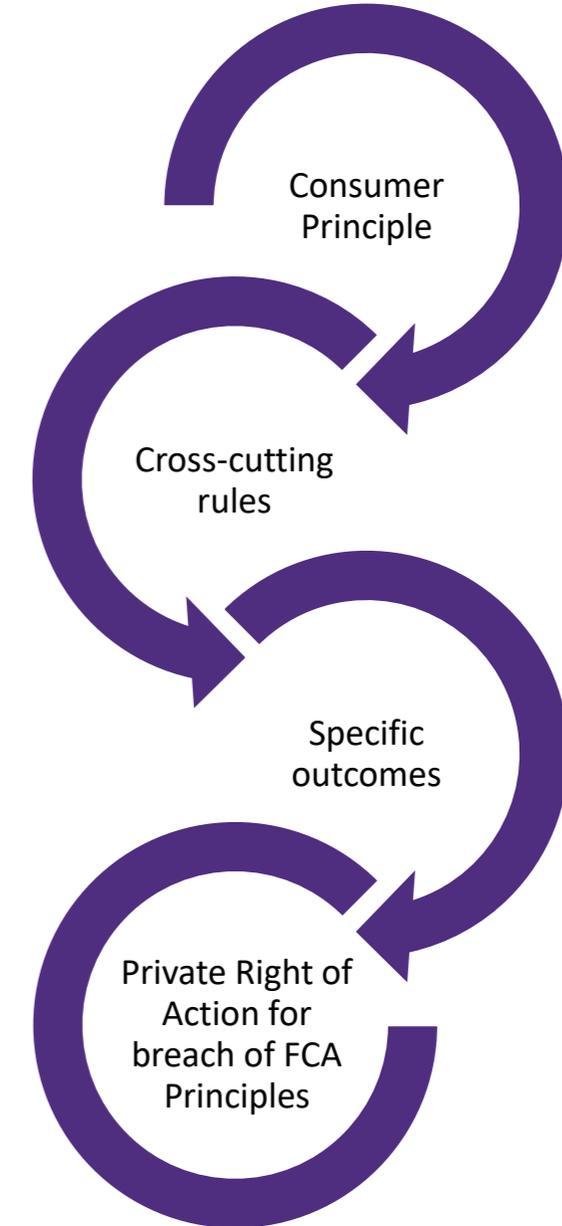
## **FCA frustrated by evidence of continued poor practice:**

- Firms providing information which is misleadingly presented or difficult for consumers to understand, hindering their ability to assess products/services properly and make good, timely decisions
- Products and services that are not fit for purpose in delivering the benefits that consumers reasonably expect, or are not appropriate for the consumers to whom they are targeted and sold
- Products and services that do not represent fair value, where benefits consumers receive are not reasonably relative to the price they pay
- Poor customer service that hinders consumers from taking timely action to manage their financial affairs and making use of products and services, or increases their expense in doing so
- Other practices which hinder consumers' ability to act, or which exploit information asymmetries, consumer inertia, behavioural biases or vulnerabilities

# A new Consumer Duty

## Purpose

- Enhance existing conduct standards in retail markets, drive cultural change and instil consumer trust
- Place onus on firms to abide by a new Principle for Businesses and to aim to deliver specific outcomes when designing, advising on or distributing products and services to retail clients
- All firms will be subject to rules specifically requiring them to act to avoid causing foreseeable harm to consumers
- Focus of the FCA to ensure that firms *'get it right in the first place'*



# The proposed 'package' of changes

## Consumer Principle

An overarching principle which sets out the overall standards of behaviour the FCA wants from firms.

Option 1: *'A firm must act to deliver good outcomes for retail clients'*

Option 2: *'A firm must act in the best interests of retail clients'*



## Cross-cutting rules

These rules will develop the FCA's overarching expectations for common themes that apply across all areas of firm conduct.

Firms must:

- act in good faith toward retail customers
- avoid foreseeable harm to retail customers
- enable and support retail customers to pursue their financial objectives.

# The proposed 'package' of changes

## Four outcomes

The FCA proposes to set expectations for each of the following Four Outcomes in a suite of rules and guidance.

- Outcome 1 – Products and services
- Outcome 2 – Price and value
- Outcome 3 – Consumer understanding
- Outcome 4 – Consumer support

## Private Right of Action for breach of FCA Principles

- A right for consumers to seek damages for loss caused by the breach
- Would enable the FCA to use its powers under section 404 of FSMA to impose an industry-wide redress scheme where there are breaches of the Consumer Duty or other Principles



# FCA's next steps

- CP21/36 consultation period ended 15 February 2022
- FCA expects to publish the Policy Statement summarising responses and final rules in Q3 2022
- Implementation of Consumer Duty rules Q2 2023

*“We expect firms to use the implementation period fully and to be able to demonstrate progress when asked.*

*We expect to carry out work during the implementation period to monitor firms and to assist them. This engagement is likely to include:*

- *supervisory work to understand firms' implementation plans and progress*
- *reviewing implementation plans and proposed change programmes*
- *engaging with firms and trade bodies to answer questions and discuss issues they raise, and*
- *publishing regular updates on our work with firms and further guidance and case studies”*

# Impact on mutuals sector

# Consumer Duty and TCF – evolution or revolution?

- Consumer Duty is the latest step in an ongoing continuum, focused on fairness, value, culture and customer outcomes
- FCA recognises that TCF has not delivered the desired objectives
- FCA talks of a “step change” being required to firms’ behaviours
- Raises the bar significantly – Consumer Duty Principle is a higher standard than Principle 6
- New CD Principle will provide the FCA with greater ability to hold firms and individuals to account
- Even greater focus on:
  - **Good** outcomes vs fairness
  - Customer **value**
  - Anticipating and preventing harm
  - Empowerment of customers
  - Learning from actual experience vs focus only on forward looking design
  - Back-books
  - Governance including Code of Conduct for those caught by SM&CR



## But

This does not mean that all firms have to start with a ‘clean sheet of paper’. Harnessing good practices will be key to meeting the new requirements

# Consumer Duty: Regulatory Expectations

To deliver on FCA expectations in a complete and measurable manner there are key areas any business will need to examine as part of its Consumer Duty approach:

- Products and services, distribution and servicing and its impact on customer outcomes
- Identification and treatment of vulnerability to be embedded and firms should seek to protect customers from harm
- Tailored interactions to improve understanding and decisions, leading to a great customer experience
- Empowering customers within the relationship
- Building personal relationships with customers that feature supportive conversations
- Clarifying definition of good or poor customer outcomes by products, services and customer support
- Embedding the right behaviour across all functions in a firm and third parties interacting with customers
- End to end customer journey outcome focus, as well as point in time outcomes

**None of this is new – but a new Principle and the cross-cutting rules codify these expectations in a more prescriptive and enforceable way**

# Challenges applicable to all four Consumer Outcomes

- Retail vs. non-retail customers
- Open business vs. closed books
- Non-UK business
- Defining and assessing, in a quantifiable way:
  - ‘Good’ (and ‘poor’) outcomes
  - ‘Fair value’
  - ‘Foreseeable harm’
- Manufacturer and/or distributor – can vary within and between areas and product lines
- Overseeing other parties in the distribution chain and outsource providers
- Customer journeys and product governance
- Insurance:
  - Pricing
  - Add-ons: both selling other insurers products, and underwritten sold via other distributors

# Outcome 1 – Products and services

## Mutual sector challenges

- Customer segmentation – retail vs non-retail
- How to treat sole traders, SMEs, partnerships
- Target market – identifying, defining and monitoring distribution
- Pricing
- Distribution strategy – including relationships with and oversight of intermediaries and outsource providers
- Product governance – design, testing, approval, review
- Customer service, especially at ‘moments of truth’

## Questions NEDs could raise

- Which customers / products are in scope?
- How do we define and segment customers?
- What constitutes a ‘**good outcome**’?
- Who are our products for (and not for)?
- How will we create a framework to demonstrate compliance that can be applied to a variety of products and services?
- How will we assess the impact on customer journeys through various distribution channels?
- How will we enhance product governance to include good outcomes and fair value?
- How will our relationships with intermediaries, outsource providers and any other parties in a distribution chain change?

# Outcome 2 – Price and value

## Mutual sector challenges

- Articulating, in a quantifiable way, what constitutes ‘fair’ value – objective and subjective
- Measuring value of closed book vs. open book
- Assessing value across the distribution chain – who adds what?
- What is reasonable remuneration for each party within the chain to take based on the value they provide and their costs?
- Pricing policy and implementation by intermediaries
- Managing incentivisation and potential conflicts of interest in the distribution chain
- Sharing information up and down the distribution chain

## Questions NEDs could raise

- What constitutes ‘fair value’?
- How do we measure and assess fair value?
- How will we articulate the value we provide alongside any other parties in a distribution chain?
- How do we ensure closed book customers get as good an outcome as open book customers?
- How will we drive consistency across the different products?
- What are the potential ‘first mover’ advantages and disadvantages?

# Outcome 3 – Consumer understanding

## Mutual sector challenges

- Mapping and assessing customer journeys – what information do customers need to know when?
- Design, review, approval and oversight of marketing materials and customer-facing documentation
- Salience / prominence of key info / T&Cs balanced against complying with various disclosure requirements
- Tailoring communications for the particular characteristics of the customer, the product, the communication channel used (e.g. app based)
- Behavioural biases
- Provision of information to intermediaries and outsource providers

## Questions NEDs could raise

- How will we ensure that customers (and intermediaries) get the information they need, at the right time, to help them make good decisions?
- How will we test our communications, and get assurance that our customers understand them and act appropriately as a result?
- How will we cater for a wide variety of customers with different characteristics?
- How will we oversee the quality of documents produced by third parties or co-manufacturers?
- How do we obtain and use feedback from customers?

# Outcome 4 – Consumer support

## Mutual sector challenges

- What support is available to customers and intermediaries, and how accessible and reactive is it?
- Identification and prevention of unreasonable barriers, delays and poor outcomes, e.g. *'Sludge practices'*
- Uneven support between servicing channels (e.g. telephony vs. digital) / gaps in service
- Identification and support for customers in **vulnerable circumstances** (including ability to share information between stages of customer journey)

## Questions NEDs could raise

- How will we provide consistent levels of support and service across the various communication and distribution channels?
- How will we ensure good outcomes and support at 'moments of truth'?
- How will we achieve consistency of customer experience irrespective of product or service, and point in the customer journey?
- How will we identify and support customers in vulnerable circumstances? How will we record and share information on this between different parts of the business?

# Consumer Duty and governance

- Product governance
- Board is responsible for assessing delivery of good outcomes
- Board to consider annual report:
  - Results of monitoring
  - New and emerging risks and mitigations
  - Evidence of poor outcomes (including for vulnerable customers), RCA and actions
  - Consistency of future business strategy with new Consumer Duty
- Agree actions required and changes to strategy before sign-off
- Monitoring – identify, change, explain, demonstrate
- Interaction with SM&CR
- NEDs – care, skill, diligence

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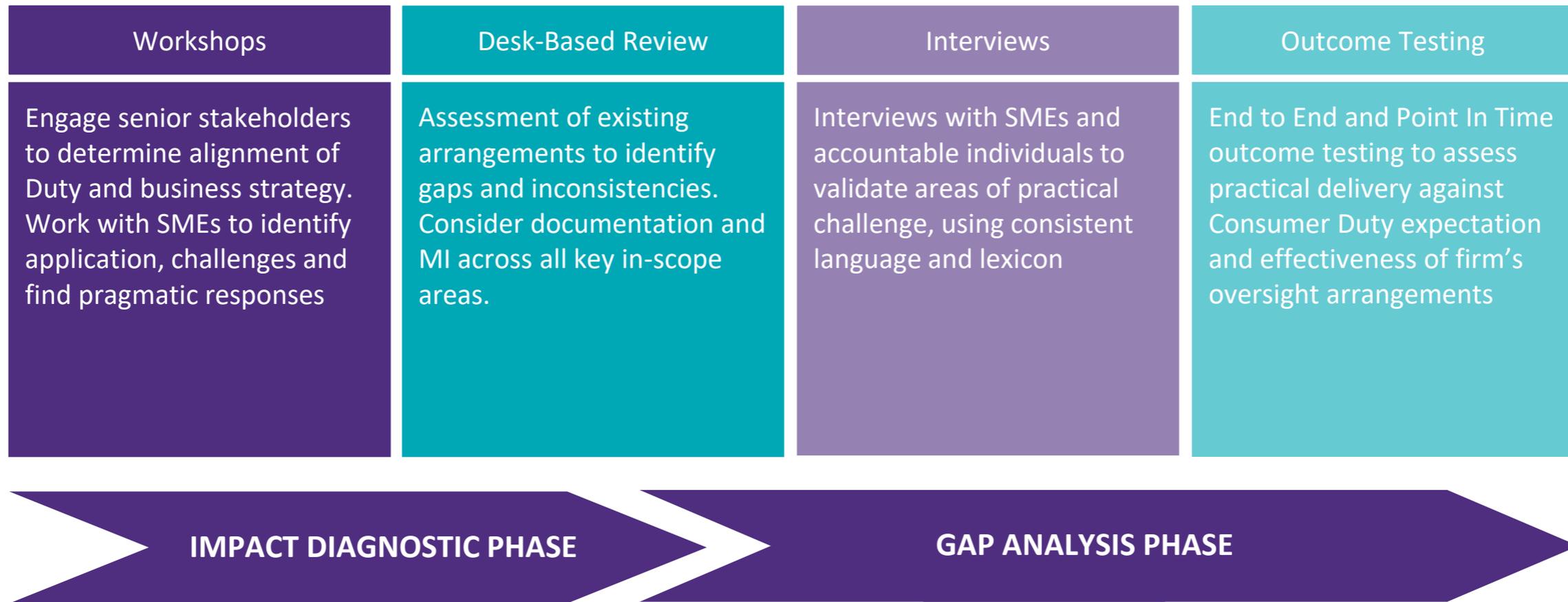
We expect the focus on acting to deliver good outcomes to be at the centre of firms’ strategy and business objectives, and should be embedded in the same way, and receive the same level of ongoing attention as, financial performance, risk and strategy.

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# An approach to preparing for the Consumer Duty

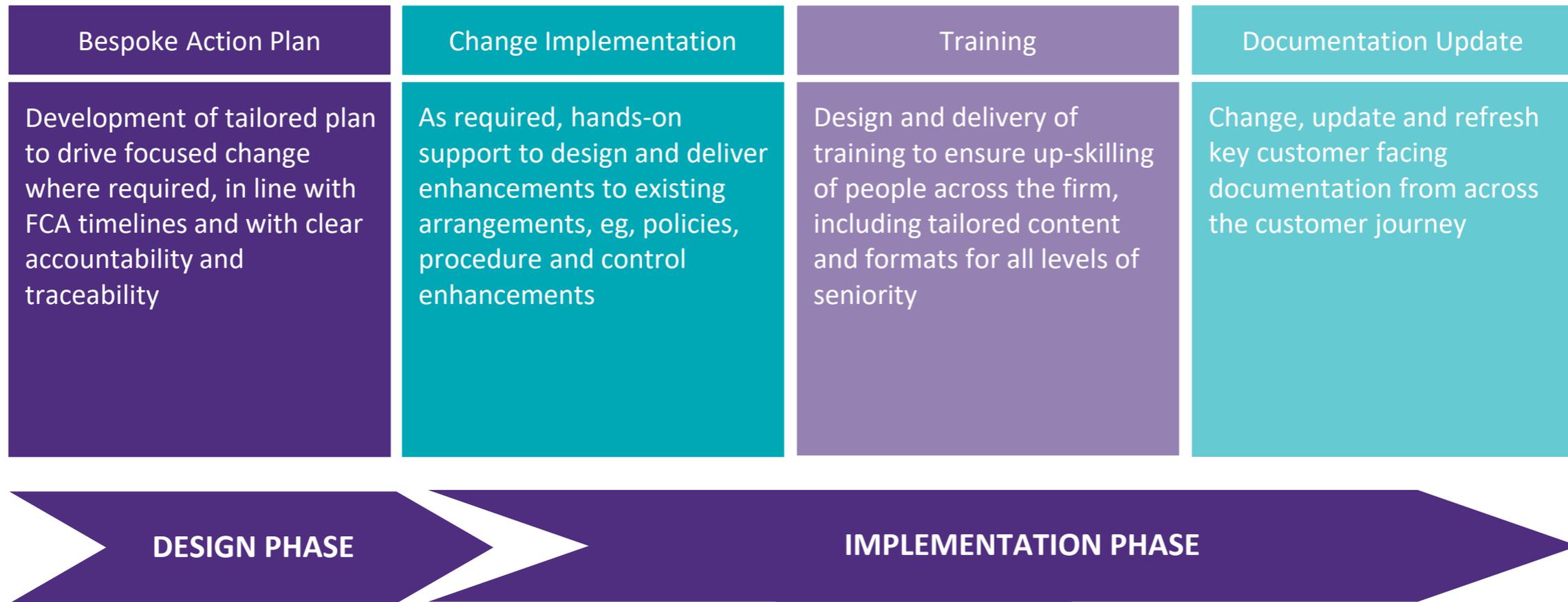
# Consumer Duty: phased model for delivery (1)

These slides set out a high-level phased model to deliver on Consumer Duty obligations. It shows a range of key activities that we would expect firms to undertake across these phases.



# Consumer Duty: phased model for delivery (2)

These slides set out a high-level phased model to deliver on Consumer Duty obligations. It shows a range of key activities that we would expect firms to undertake across these phases.



# Questions



