

CAPCO

CONSUMER DUTY MEETING THE CHALLENGE

SUMMARY

- In July 2022, the FCA published its final Policy Statement, PS22/9, which set out its higher expectations for the standard of care firms provide to consumers.
- The FCA's aim is “to drive a healthy and successful financial services system in which firms can thrive and consumers can make informed choices about financial products and services”.
- The FCA is clear that putting consumers' needs first is the cornerstone of the Duty, highlighting the expectation that firms need to understand their customers' requirements, and deliver good outcomes to meet them.

IMPLEMENTATION TIMETABLE

- October 22 – Board to i) have agreed implementation plans; ii) be able to evidence scrutiny and challenge; iii) be ready to share plans with the FCA.
- April 23 – Manufacturers to complete all reviews to be able to share with distributors.
- July 23 – Consumer Duty applies to all new and on-sale products and services.
- July 24 – Consumer Duty applies to all closed products and services.

WHAT IS CONSUMER DUTY?

THE PRINCIPLE

With Consumer Duty, the FCA are aiming to drive a new consumer principle that requires firms to act to deliver good outcomes for retail customers. Consumer Duty represents a “paradigm shift” by placing an expectation that a firm’s approach is embedded at every stage of the customer journey across both the manufacturing and distribution of products and services. The rules require firms to consider the needs, characteristics, and objectives of their customers, 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.

While acknowledging that consumers hold responsibility for their own actions, the principle puts the onus onto firms to provide a layer of protection for customers due to the imbalance in bargaining power and expertise between customers and firms, and due to customer’s susceptibility to cognitive biases which may hinder their decision-making.

Consumer Duty also extends retail standards of care to all firms in the distribution chain for products and services, thereby also impacting wholesale banking operations. Furthermore, Consumer Duty expectations will apply even where firms do not have a direct relationship with the end customer. As such, this will have varying impacts across all sectors including banking,

insurance, payments, investment banking, and wealth and asset management, regardless of whether firms directly supply products and services to consumers.

The Consumer Duty is formed of three components:

- A new consumer principle, which requires all financial services firms to “**act to deliver good outcomes for retail customers**”
- Cross-cutting rules to support the new principle
- Four outcomes, each with rules for firms to follow to drive these good outcomes for their customers.

THE CROSS-CUTTING RULES

Consumer Duty introduces three overarching, cross-cutting rules to guide firm’s behaviour across all activities. These require firms to:

- Act in good faith towards retail customers
- Avoid causing foreseeable harm to retail customers
- Enable and support retail customers to pursue their financial objectives.

These rules are underpinned by the concept of **reasonableness** – an objective concept based on the expected standard from a comparable firm and given the nature of the product/service; the needs and characteristics of customers; and the firm’s role in relation to the product/service.

THE OUTCOME AREAS

The FCA are pivoting to outcome-based regulation by targeting four outcome areas which represent the key elements of the firm-consumer relationship:

PRODUCTS AND SERVICES

The requirement that all retail products and services are fit for purpose, designed to meet customers' needs and targeted at those customers. This also covers the distribution strategy, and the FCA has outlined guidance for both manufacturers and distributors to enable them to meet this requirement.

WHAT THIS MEANS FOR FIRMS

Manufacturers are expected to identify a target market for whom a product or service is intended and ensure that the design and distribution of the product is align to this target market's needs, characteristics, and objectives. This includes considering aspects of vulnerability, behavioural biases, and avoidance of harm. Distributors must also understand the products they are distributing, to be able to align with the intended distribution strategy.

PRICE AND VALUE

The requirement that all customers receive fair value for the products purchased, in that there is a reasonable relationship between the price paid for a product and the benefit received. This is not simply a reflection of price, as low prices may not relate to fair value, while products with a higher price may be justified if they provide clear benefits and high quality to the customer.

WHAT THIS MEANS FOR FIRMS

Firms are required to consider all costs over time, from the start of the relationship, over the life of the product, and at termination. This outcome also covers the consideration that firms can charge different prices to separate groups of customers for the same product, for example favourable pricing to existing customers. However, the prices for both groups must still provide fair value in relation to the product.

CONSUMER UNDERSTANDING

The requirement that communications between the firm and their customers enable customers to make informed decisions about their financial products and services. To do so, firms need to consider the purpose, clarity and timeliness of communications, and how they are tailoring messages based on the characteristics of their target market.

WHAT THIS MEANS FOR FIRMS

The FCA suggests a proactive "test and learn" approach to communicating with customers, whereby firms regularly measure the understanding of the target recipients and adapt future communications based on the results. This approach should be implemented at all stages of the customer journey, from pre-sale across the lifecycle of a customer's relationship with the firm.

CONSUMER SUPPORT

The requirement that a level of support is provided which meets customers' needs throughout their relationship with a firm and enables customers to realise the benefits of the products and services they buy, without facing any unreasonable barriers such as additional costs in the form of fees, delays, or inconvenience. Customers should be able to contact the firm when they have a question or complaint, through the channel which best meets their needs.

WHAT THIS MEANS FOR FIRMS

By allocating more resourcing to pre- and post-sale customer support, firms can mitigate negative friction which may present a barrier to a customer being able to act in their best interests, for example being unable to make an insurance claim, or close a product. On the other hand, positive friction (nudges) can also be built in to prevent customers from acting in a way which leads to harm, for example by purchasing products which are not appropriate for them due to lack of knowledge.

CONSUMER DUTY



CULTURE, GOVERNANCE AND ACCOUNTABILITY

It is expected that the consumer principle will form an integral factor in firms' strategies and objectives. This requires a shift in culture across all levels of the organisation, represented by the firm's purpose, leadership, people, and governance. Accountability is held by the firm's board, or equivalent governing body, with a champion at board level who ensures

the Duty is being considered in all relevant discussions. This is supported by senior managers across the organisation, forming part of each Senior Management Function (SMF) role and resulting from the Senior Managers & Certification Regime (SM&CR). Consumer Duty is expected to formally become the FCA's 12th Principle of Business meaning that any breach in these rules could result in enforcement action.

IMPLEMENTATION PLANNING

IMPLEMENTATION DATE 1 – REVIEW OF THE IMPLEMENTATION PLAN BY THE BOARD – OCTOBER 2022

In October 2022, firms are required to meet the first of the FCA's Consumer Duty commitments by presenting implementation plans to their respective Boards or management bodies.

The FCA has clarified their expectations of firms for the October implementation plans. It is not expected that firms have fully scoped all areas by October but that plans need to be sufficiently mature to demonstrate confidence that the Duty will be fully implemented. Implementation plans may look to include:

- A gap analysis of the extent to which firms currently meet the requirements and details of the uplifts required to existing frameworks and controls
- High risk areas that are prioritised for review and uplift where the firm expects to focus its efforts
- Anticipated budget forecast, including the ramp up plan for any additional BAU capacity or third party support, or reprioritisation where existing transformation initiatives may be deferred. This should be considered against any wider customer impact
- How firms plan to demonstrate good customer outcomes through effective monitoring and use of data. Firms should consider their own definitions of "good outcomes" against the various components of the duty and how they can demonstrate these are being achieved.

The appointment of a Consumer Duty Board Champion by the end of October would demonstrate a commitment to ensuring that the plans are scrutinised and challenged and that customer outcomes are consistently discussed at Board level throughout the lifecycle of the Programme and beyond implementation. The FCA has confirmed that they intend to sample implementation approaches, with consideration given to sharing the output of sampling to share best practice.

IMPLEMENTATION DATE 2 – MANUFACTURERS TO COMPLETE ALL REVIEWS – APRIL 2023

By April 2023, firms responsible for the manufacturing of products are required to share the information necessary for distributors to meet their obligations under the Consumer Duty. Manufacturers must therefore complete the reviews of their products against the requirements of the Duty including review of the necessary information shared to understand the value that a product is intended to provide to a customer. Implementation plans must consider the need to sequence their reviews of products and journeys to satisfy this stage of the implementation. Distributors should consider the receipt of information from manufacturers as part of their implementation plan, with consideration given to whether their existing arrangements with third party manufacturers and information flows provide sufficient confidence and transparency against the requirements of the policy.

IMPLEMENTATION DATE 3 – POLICY IMPLEMENTED FOR NEW AND EXISTING PRODUCTS AND SERVICES – JULY 2023

By July 2023, firms must have implemented the Duty for all in-scope new and existing products and services that are open to sale or renewal. This phase will focus on the uplift to products and services based on identified gaps against the rulebook requirements. For firms that manufacture or distribute a large number of open products, it is recognised that the scale of review will provide a significant challenge. Firms should consider how to prioritise the sequencing and depth of their product review based on the likely risk that a product or service has deficiencies against the duty. Where possible, firms may want to consider leveraging their BAU product review processes. Customer journey analysis should be completed concurrently to the review of product characteristics to determine whether there are unreasonable barriers to

customers achieving their financial objectives. A find and fix methodology should be adopted to ensure that barriers or frictions are addressed once identified. Sufficient time should be allowed for to complete assurance that the duty has been fully implemented and, where possible, this should be demonstrated through enhanced customer outcomes.

IMPLEMENTATION DATE 4 – POLICY IMPLEMENTED FOR CLOSED PRODUCTS AND SERVICES – JULY 2024

By July 2024, the review and uplift to products and services should be extended to cover closed products. Firms with large closed books may wish to consider the value of rationalising their product offerings. The implementation period to July 2024 may include longer running, strategic implementation to enhance the firm's ambition for delivering good customer outcomes, particularly if the July 2023 date (implementation date 3) does not allow sufficient time for technology implementation.

KEY CONSIDERATIONS AND RECOMMENDATIONS

PRODUCT PRIORITISATION – Firms should apply a tiered approach to reviewing products against the new Consumer Duty standards developed in the programme. The depth of review undertaken should be commensurate with the level of risk that a product, service, communication, or journey will require remediation.

COMMUNICATION UPLIFT – The review of communications should focus firstly on those communications which, if the customer does not understand or does not take the directed actions, could cause material harm. The communications should also be considered within the context of the wider customer journey.

CUSTOMER JOURNEYS – Firms should complete customer journey analysis to identify unreasonable barriers in the customer support model. Journeys should be prioritised based on known areas of concern, strategic customer experience importance, volume of customers and known complaint volumes.

TRIAGE – A triage process needs to be implemented whereby gaps identified during the review of products, communications and journeys are prioritised for remediation. In cases where strategic fixes are required to address thematic issues, the FCA has noted that a firm's board must assure themselves that actions are in flight to remedy these issues.

IDENTIFYING BEHAVIOURAL BIASES – A framework should be defined that details the nature and characteristics of behavioural biases that can negatively impact customer outcomes. This should outline the impact of different behavioural biases on customer engagement, support, product design, and communication.

TECHNOLOGY – Requirements for technical solutions should be defined by the end of the year to practically implement by July 2023. If technical implementation plans run beyond July, these should be tactically mitigated. For example, if the development of a digital journey is required to address an asymmetry in the customer service model, a manual workaround should be considered.

OUTCOME MONITORING – A key requirement of the Duty is that firms continuously monitor and review outcomes to identify and address any issues that customers may be experiencing. Aligning with the FCA's own transformation agenda, firms are expected to use a more data-led approach as part of their ongoing monitoring. This includes being able to evidence the use of data to understand their customers' behaviours.

CUSTOMER-CENTRICITY RATHER THAN COMPLIANCE – Meeting the requirements swiftly benefits the firm by enabling alignment with customers' needs, which strengthens customers' connection and brand loyalty, and insights can allow new initiatives and innovations to be developed with these needs in mind.

PROGRAMME MANAGEMENT – Firms' boards will expect to see how the implementation plan is going to be governed, resourced and assured. Firms should outline the Consumer Duty programme structure, accountable sponsors, delegated authority and workstreams involved to ensure clear lines of accountability for project delivery and BAU ownership. Risk Stewards and Internal Audit should be closely involved to provide assurance over outcome delivery. Firms should consider the resourcing approach, resource estimates and required investment to deliver the implementation plan. There will likely be a heavy dependency on BAU teams, such as Product Managers, communications teams and data and analytics teams.

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ABOUT CAPCO

Capco, a Wipro company, is a global technology and management consultancy specializing in driving digital transformation in the financial services industry. With a growing client portfolio comprising of over 100 global organizations, Capco operates at the intersection of business and technology by combining innovative thinking with unrivalled industry knowledge to deliver end-to-end data-driven solutions and fast-track digital initiatives for banking and payments, capital markets, wealth and asset management, insurance, and the energy sector. Capco's cutting-edge ingenuity is brought to life through its Innovation Labs and award-winning Be Yourself At Work culture and diverse talent.

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