



Overview:

# Consumer Duty

### What is the Consumer Duty?

The Consumer Duty is a new set of regulations from the Financial Conduct Authority (FCA).

The Duty is intended by the FCA to introduce clearer and higher standards for firms, to continue to improve the outcomes that customers receive from financial services. It aims to raise the standard's that customers can expect across the whole financial services sector.

It has been variously described by the FCA as a 'reset' and a 'clean break' from previous terminology and is set to be the future of FCA regulation. Given the importance that the FCA are giving the Duty, it's important to understand what it means for you and your business.

### Who does the Consumer Duty affect?

The Duty covers retail activities for **all** regulated firms.

It doesn't cover unregulated business or activities not involving retail customers.

The Duty applies across the distribution chain from product manufacturers right the way down to product distribution and firms undertaking post-sale activities. This will include firms who do not have a direct relationship with the end customer but can have an impact on the outcomes that these customers get.

Firms won't be required to oversee the actions of other firms in the distribution chain.

### When does it come into force?

The final rules for the Consumer Duty will come into force on the 31st July 2023. For any products or services closed to new customers, but still operating, firms will have until 31st July 2024 to apply the rules.

There was also a requirement from the FCA to complete an Implementation Plan by 31st October 2023. This document should show how a firm plans to prepare to comply with the Duty when it comes into force.

The Duty won't be retrospective and doesn't apply to past actions by firms. Any actions taken before the Duty comes into force are subject to the rules that applied at the time.

There are three main elements to the Duty:

### A new consumer principle

Principle 12: *Firms must act to deliver good outcomes for retail customers.*

### Cross-cutting rules

Underpinning this are cross-cutting rules, designed to set out behaviours expected of firms and with the interpretation of the four customer outcomes which are the final part of the consumer duty. There are three consumer outcomes:

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

### The consumer outcomes

The four customer outcomes under the new duty represent the key elements of relationship between customers and firms and help to drive good outcomes for customers. The four outcomes are:

- Products and services
- Price and value
- Consumer understanding
- Consumer support

Any advice service that you offer to your customers will need to take into consideration the requirements of the Duty, including the outcomes.

The Consumer Duty is intended to cover all of a firm's activities, from strategic planning all the way down to individual customer interactions.

### **The new principle: firms must act to deliver good outcomes for retail customers**

The new Consumer Duty principle will be Principle 12 and is set to replace Principle 6 and principle 7, except for business where the new principle doesn't apply. The new principle is intended to provide a clearer and higher standard than Principle 6 and 7.

It will apply across a distribution chain, even if a firm doesn't have direct contact with a customer.

### **Cross-cutting rules**

#### **Acting in good faith**

A standard of conduct characterised by acting openly, honestly and consistently towards customers.

#### **Avoid causing foreseeable harm**

This is about using your knowledge, expertise and information available to you at the time of advice to put the customer in the best position to avoid harm.

#### **Enable and support customers to pursue their financial objectives**

Firms will need to focus on putting customers in a better-informed position, so that they can make decisions in their own interests.

### **The consumer outcomes**

These represent the key elements of firm consumer relationships and are instrumental in helping to drive good outcomes for customers.

#### **Products and services**

These should be fit for purpose, be designed to meet the needs, characteristics and objectives of the target market and distributed appropriately.

#### **Price and value**

There should be a reasonable relationship between the price a consumer pays for a product or service and the benefits they receive from it.

#### **Consumer understanding**

A firm's communications should support and enable customers to make informed decisions about products and services and be presented in a way they can understand and give them the information they need.

## Consumer support

Customers should be provided with a level of support that meets their needs throughout their relationship with the firm and be supported in pursuing their financial objectives.

## A new Conduct Rule

A new Conduct Rule 6 will also be introduced: You must act to deliver good outcomes for retail customers.

This new rule will apply to all Conduct Rule staff for any activities that fall underneath the new Duty. Where Conduct Rule 6 applies, Conduct Rule 4 (*you must pay due regard to the interests of customers and treat them fairly*) will no longer apply.

### **Responsibility**

The Duty doesn't remove a customer's responsibility for their choices and decisions. But there is an expectation that firms help customers to make informed decisions by providing them the right information at the right time in a format that they can understand.

### **Proportionality**

The FCA has stated that the requirements are proportional in nature and will require larger, more complex firms or firms working in more complex areas, to do more to meet the requirements of the Duty.

### **Governance and accountability**

The regulator expects that complying with the Duty will require a significant shift in both culture and behaviour for many firms. They expect the Duty to be reflected in a firm's strategies, governance, leadership and people policies.

### **Notification requirements**

A firm must notify the FCA if they become aware that another firm in the distribution chain is not complying with the Duty.