



The FCA's Consumer Duty

What you need to know

An independent member firm
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What is it?

Executive summary

The Financial Conduct Authority (FCA) recently published its second consultation on the new Consumer Duty rules (CP 21/36) which will apply to up to 51,000 regulated firms and seeks to drive cultural change by putting a stronger emphasis on prioritising the needs of retail customers.

It seeks to enable and support these customers to pursue their financial objectives and to make choices in their own interests, assisted by firms providing them with the information and support required to allow them to enjoy the use of their product or service without unreasonable barriers or delay.

This is a key area of regulatory focus and will require firms to review their systems, controls and processes throughout the entire customer journey to identify where consumers may potentially be harmed and to take remedial action where necessary.

The Consumer Duty applies to firms who have a material influence impacting retail clients covering any of the following:

- The design or operation of products or services
- The distribution of products or services
- The preparation and approval of communications
- Contact with clients on behalf of another firm

It is expected that all relevant firms embed, and are able to evidence, a real focus on delivering good outcomes for consumers and as such this will impact everything from strategic planning through the development of products and services to customer servicing and support.

Given the large scale of the proposed changes and with final rules expected by 31 July 2022 and a deadline for implementation of 30 April 2023, it is recommended that firms now start to consider how their current operations align with the requirements of the Consumer Duty.

We set out in this flyer some of the key points raised by the regulator in its latest consultation.

The Consumer Principle and the cross-cutting rules

The FCA is proposing a new Consumer Principle which states: “A firm must act to deliver good outcomes for retail customers”. This will be supported by the following cross-cutting rules which develop the FCA’s expectations of firms and apply across all areas of conduct:

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

The FCA has also set out rules relating to the following four outcomes which it deems as being key to the relationship customers have with firms:

Products and services

Should be designed to meet the needs of consumers.

Price and value

Should represent fair value for consumers.

Consumer understanding

Should enable consumers to make informed, timely and effective decisions.

Consumer support

Should enable consumers to realise the benefits of the products and services they buy and ensure they are supported when pursuing their financial objectives.

We set out on the following page some of the key elements of each of the outcomes.

Products and services

As part of the design stage of the product or service, it is expected that the firm clearly identifies the target market at a sufficiently granular level and operates a review process which includes consideration of fair value and how the firm will take account of the needs of any consumer groups who have characteristics of vulnerability.

As part of this process, the firm needs to consider the distribution strategy which will require the provision of sufficient information to each distributor to enable them to comply with the rules.

Manufacturers should regularly monitor whether their products and services continue to meet the needs, characteristics and objectives of the target market, that their distribution strategy remains appropriate, and whether products and services have been distributed to customers in the target market as identified at the outset.

Distributors will need to consider if their arrangements are appropriate, up to date and whether products and services have been distributed to customers in the target market.

Price and value

Firms need to have performed a value assessment to be able to demonstrate why they consider the relationship between the product or service's price and benefits to be reasonable.

When assessing if a product or service provides value, consideration should be given to a number of factors including its nature and benefits, any limitations and the expected total price, including all fees and charges. It is expected that firms assess value at the design stage as well as throughout its lifecycle and if at any point it is found that fair value is not being provided, the firm must act on this to prevent harm from occurring such as by amending the product/service or removing it from sale.

Manufacturers must also provide detail of their assessments to distributors such that they can assess the impact that their arrangements have on value.

Consumer understanding

This is a key element of how firms operate and there are a number of requirements for firms to ensure that information provided throughout the customer journey, in all formats and mediums, is clear, fair and not misleading. It is expected that firms 'put themselves in their customers' shoes' and provide them with the right information at the right time to allow them to be able to make informed decisions.

If interacting with the customer directly, communications should be tailored to meet their individual characteristics and information needs, and the firm should check that the customer understands the information communicated. This will require firms to implement clear policies and procedures and ensure staff are appropriately trained.

As part of the process, it is recommended that in instances where customer harm may occur, firms test their communications prior to being sent to satisfy themselves that the customer is likely to understand them.

Consumer support

It is vital that customers get the appropriate level of support throughout the lifecycle of a product or service and that the quality of any post-sale support be as good as it is pre-sale.

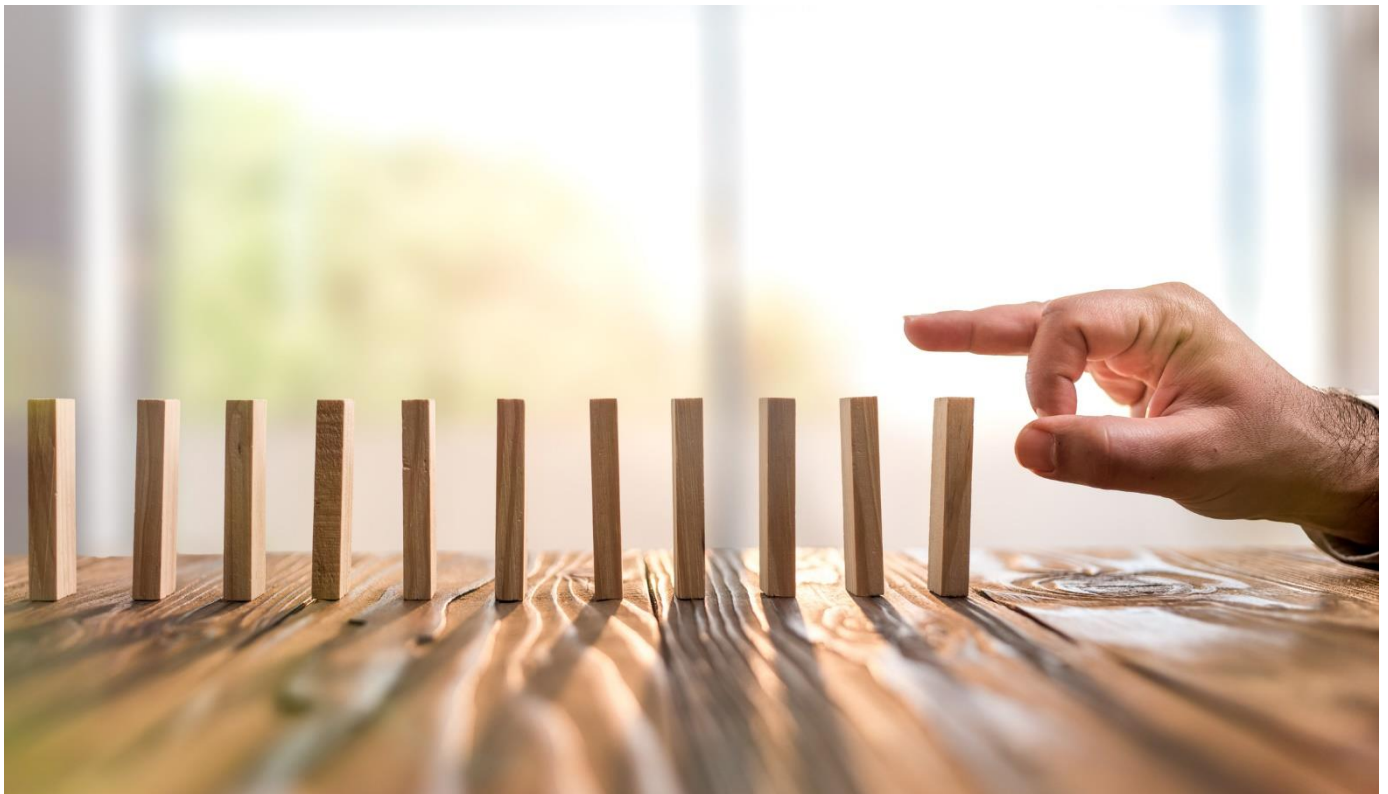
Customers should not face any unreasonable barriers when attempting to contact firms such as by experiencing consistently poor or excessively slow service, limited channels for communication, under-resourced helplines or badly designed or difficult to navigate websites making it difficult to find key information. There should be no areas of "high friction" which may disincentivise the customer from accessing support.

Processes covering all products and services should make it as easy as possible for the customer to interact with firms throughout their financial lives. Firms therefore need to put greater emphasis on how they ensure that consumers receive the right outcomes and how they make it easy to answer any queries, facilitate the switching of products and provide channels for making a complaint. In order to deliver this, firms need to have robust processes, policies and systems in place and have staff who prioritise good consumer outcomes.

Vulnerable customers

The FCA expects firms to have processes to enable them to identify when specific groups of consumers receive poorer outcomes. In particular, it is recognised that some consumers with characteristics of vulnerability such as low levels of financial resilience, capability or confidence may have their decisions impacted. It is therefore expected that firms take action to identify the needs of vulnerable consumers. This could be done by holding focus groups and working with third party specialist organisations as part of the product design and review stages.

This consultation is consistent with the guidance previously published by the FCA on Vulnerable Customers (FG 21/1) and firms should consider both when reviewing their current state systems and processes as they share common themes.



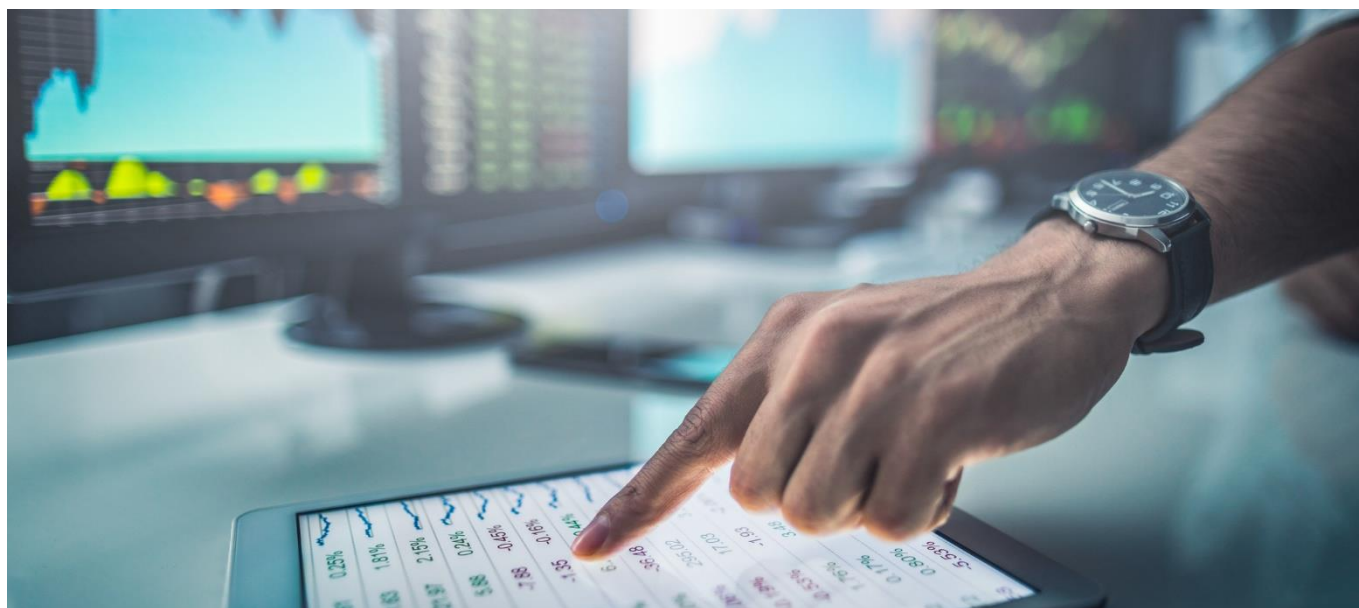
Monitoring and governance

Firms will be required to regularly monitor and evidence the outcomes retail consumers receive throughout the customer journey.

Firms are expected to have procedures in place to be able to identify any risks to consumers getting good outcomes and where this occurs, they need to be able to implement any required remediation such as via a change in their products or services.

There is a requirement for the governing body to review and approve a report on at least an annual basis. This should include the results of any relevant monitoring undertaken to determine whether consumers are receiving the expected outcomes, any new and emerging risks to good consumer outcomes together with actions taken to address them, and how the business strategy is consistent with good outcomes set out in the Consumer Duty.

It is expected that firms have appropriate Management Information (MI) in place to be able to support the monitoring of outcomes in line with the Consumer Duty and to meet their governance obligations. Whilst the FCA has not stipulated what data should be collected, given this will be dependent on the type of firm, consideration should be given to include training and competence records, numbers and root causes of complaints and any consumer feedback.



What do you need to do?

Given the far-reaching impacts of the Consumer Duty and the broad obligations on firms, it is vital that organisations truly understand the affect this is likely to have. Consideration will need to be given to how it will impact the firm's strategy and an initial gap analysis should be undertaken to review the business model and to identify any gaps in processes, controls, documentation and MI requirements to support the consumer journey.

This is likely to impact numerous teams within the organisation including those involved in product manufacture, third party oversight, distribution, staff training, marketing and customer services.

As part of any such project, it will be important to review the language used in key documents and to be aware that it may be necessary to update the contractual terms and conditions of a product or service before it can be sold to new consumers. Key data points which give the relevant information through the customer journey may need to be identified, and IT systems will also need to be reviewed to ensure that they can support the necessary changes.

Next steps

It is expected that the FCA will publish the policy statement with the new rules by 31 July 2022, with a deadline for implementation likely to be set for 30 April 2023.

Given the relatively short timescale for implementing any changes to their processes, systems and controls, firms should not wait for the final rules to be published before mobilisation. We believe the latest consultation paper gives sufficient information on the direction of travel, and provides adequate guidance for firms to identify how the new rules are likely to impact them.

How can Johnston Carmichael help?

We are able to support you manage this key piece of regulatory change and can tailor our solutions to meet your needs, including assisting you with any of the following:



Regulatory gap analysis

Using our significant experience of processes and controls, including through undertaking process transformation and performance optimisation, we are able support you undertake a gap analysis against the requirements of the regulator.



Complex change support services

We can review the customer journey to identify any issues and associated root causes and are able to support you implement change within your business. We have significant experience in undertaking customer research, conducting culture change surveys and advising clients on target operating model redesign.



Internal audit and other assurance

We have experience in performing assurance engagements and internal audits, both on a co-sourced and fully outsourced basis, and are able to undertake a tailored review of your project or support you through specific elements of the implementation process.

About us

We are a specialist financial services team made up of senior, experienced professionals to deliver for our clients across the financial services sector.

We have a broad spread of experience supporting firms through undertaking the following:

- Regulatory advisory and assurance engagements
- Transaction support
- Co-sourced and fully outsourced internal audit
- Strategy consulting
- Performance optimisation and target operating model re-engineering

We work alongside the broader Johnston Carmichael financial services group who support our clients with a number of other services such as tax, audit, investigation & recovery and IT support.

[Johnston Carmichael](#) are an independent firm of chartered accountants and business advisors and are part of [Moore Global](#), an international accounting and advisory network with over 29,000 people across 547 offices and 113 countries.

Contact

If you would like to know more about the FCA's Consumer Duty or want to talk about any other aspect of regulation or your control environment, please do not hesitate to contact us.



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