

Compliance Consultant

NAVIGATING THE REQUIREMENTS OF THE FCA'S CONSUMER DUTY



Table Of Contents

Introduction	2
Understanding the FCA's Consumer Duty	9
Best Practices for Business Owners in Complying with the Consumer Duty	14
The Role of Compliance Professionals in Ensuring Compliance with the Consumer Duty	25
Challenges and Opportunities in Complying with the Consumer Duty	32
Conclusion	37
Appendix - FCA Consumer Duty Questionnaire & Report Checklist	42
What is changing	42
Before you start	46
Questionnaire	49
Assessing Fair Value	74
Assessing Fair Value	77
To 'act to deliver good outcomes for retail customers'.	96

Introduction

Overview of the FCA's Consumer Duty

Overview of the FCA's Consumer Duty

The Financial Conduct Authority (FCA) is a regulatory body responsible for ensuring that financial services firms operate in a fair and transparent way, treating their customers fairly. To achieve this goal, the FCA has introduced a Consumer Duty, which is a set of rules and principles designed to protect consumers and improve the quality of service provided by financial firms.

The Consumer Duty is based on three key principles: act in the best interests of customers, take reasonable steps to avoid harm to customers, and promote good outcomes for customers. These principles are intended to help firms focus on meeting the needs of their customers, and to ensure that they are treated fairly.

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Complying with the FCA's Consumer Duty: Best Practices for Business Owners

One of the key aspects of the Consumer Duty is the requirement for firms to understand their customers' needs and to tailor their products and services accordingly. This includes providing clear and transparent information about the products and services on offer, as well as ensuring that customers are able to make informed decisions about the financial products they are purchasing.

Another important aspect of the Consumer Duty is the requirement for firms to take responsibility for the outcomes of their products and services. This means that firms must ensure that their products and services are suitable for their customers, and that they are not exposing customers to undue risk.

The FCA has also introduced a set of rules and guidance to help firms comply with the Consumer Duty. This includes guidance on how to identify and manage conflicts of interest, how to ensure that customers are treated fairly when dealing with complaints, and how to ensure that vulnerable customers are given appropriate support.

Overall, the FCA's Consumer Duty is aimed at improving the quality of service provided by financial firms, and ensuring that customers are treated fairly. Compliance professionals and business owners in the financial services industry should familiarise themselves with the principles and rules of the Consumer Duty, and take steps to ensure that their firms comply with these requirements. By doing so, they can help to build trust and confidence in the financial services industry, and ensure that customers are given the protection and support that they deserve.

Purpose of the Book

The purpose of this book is to provide compliance professionals and business owners in the financial services industry with the best practices to comply with the FCA's Consumer Duty. The FCA's Consumer Duty is a new framework that sets out a series of obligations that firms must follow to ensure that they are treating their customers fairly. This framework is intended to improve outcomes for consumers in financial services and create a level playing field for firms.

The book covers a range of topics, including the key principles of the FCA's Consumer Duty, the obligations firms have under this framework, and the best practices to ensure compliance. It also provides guidance on how to embed the Consumer Duty into a firm's culture and processes, as well as how to assess and monitor compliance.

The book is designed to be a practical guide for compliance professionals and business owners, providing them with the tools and knowledge they need to comply with the Consumer Duty and improve outcomes for their customers. It includes case studies, examples, and practical tips to help firms understand how to apply the framework in practice.

The book is also intended to be a resource for firms that are just starting to implement the Consumer Duty, as well as those that have already begun the process. It provides a comprehensive overview of the framework and the best practices for compliance, as well as guidance on how to address common challenges and issues that firms may encounter.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Overall, the purpose of this book is to help compliance professionals and business owners in the financial services industry to comply with the FCA's Consumer Duty and improve outcomes for their customers. By following the best practices outlined in this book, firms can ensure that they are treating their customers fairly and creating a level playing field for all firms in the financial services industry.

Target Audience

Understanding your target audience is crucial to complying with the FCA's Consumer Duty. As a compliance professional or business owner in the financial services industry, it is essential to know who your customers are and what they need from you.

The FCA's Consumer Duty puts a greater emphasis on consumer outcomes and requires firms to act in the best interests of their customers, prioritizing their needs and preferences. This means that you must understand your target audience's financial goals and objectives, their risk appetite, and their financial literacy levels.

Your target audience may vary depending on your business model and the products or services that you offer. For example, if you provide financial advice, your target audience may be individuals or businesses seeking investment opportunities or retirement planning. If you offer credit services, your target audience may be individuals or businesses looking for loans or credit lines.

To identify your target audience, you need to conduct market research and analyse customer data. You can use various tools and techniques to gather information about your customers, such as surveys, focus groups, customer feedback, and social media analytics.

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Once you have identified your target audience, you need to tailor your products and services to meet their specific needs and preferences. You should communicate with your customers in a clear and transparent manner, providing them with the information they need to make informed decisions.

It is also essential to monitor your customers' satisfaction levels and feedback to ensure that you are meeting their expectations and complying with the FCA's Consumer Duty. You should have a robust complaint handling process in place to address any issues or concerns promptly.

Many people don't fully comprehend the depth or need for ideal personas, but they are not hugely difficult. A generic persona could look like the following;

DEMOGRAPHICS:

Data points	Answers
Name	Samantha
Age	35
Occupation	HR Manager
Annual Income	£70,000
Marital Status	Married

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Family Situation Two children, ages 7 and 10

Location Suburban area in London

PSYCHOGRAPHICS:

Data points	Answers
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Personal Characteristics	Responsible, family-oriented
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Hobbies	Gardening, reading, baking
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Interests	Personal finance, parenting
-----------	-----------------------------

Personal Aspirations	Building a stable financial future
----------------------	------------------------------------

Professional Goals	Advancing in her career
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Pains	Concerns about unexpected expenses, family's well-being
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Main Challenges	Balancing work and family life
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Needs	Financial security, peace of mind
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Dreams	Taking a family holiday to USA
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SHOPPING BEHAVIOURS:

Data points	Answers
Budget	£100-£200 per month
Shopping Frequency	Once a month
Preferred Channels	In-person or over the phone with a trusted agent
Online Behavior	Researches products and companies online before making a purchase
Search Terms	"Family insurance," "affordable life insurance"
Preferred Brands	Companies with a long history of success, good reputation for customer service
Triggers	Major life events (birth of a child, purchase of a new home)
Barriers	Confusing policy language, difficulty understanding different insurance products

In summary, understanding your target audience is crucial to complying with the FCA's Consumer Duty. By prioritizing your customers' needs and preferences and tailoring your products and services accordingly, you can build long-term relationships and establish trust with your customers.

Understanding the FCA's Consumer Duty

Definition and Scope

The Financial Conduct Authority (FCA) has recently introduced a new regulatory framework known as the Consumer Duty. The Consumer Duty is a set of rules and principles that aim to improve the outcomes for consumers of financial services products. The FCA aims to increase transparency, fairness, and accountability in the financial services sector. This subchapter aims to provide a comprehensive definition and scope of the Consumer Duty and its implications for business owners and compliance professionals in the financial services industry.

The Consumer Duty consists of three key elements:-

- 1. A duty of care** - financial services firms must act in the best interests of their clients, taking reasonable steps to ensure they receive products and services that meet their needs.
- 2. A duty of disclosure** - firms must provide clear and transparent information to consumers about the products and services they offer, including costs, fees, and charges.
- 3. A duty of diligence** - firms must take reasonable steps to ensure that the products and services they offer are suitable for their clients, based on their individual circumstances.

The Consumer Duty is applicable to all firms regulated by the FCA, including banks, insurance companies, investment firms, and financial advisers. The FCA has made it clear that the Consumer Duty is not a new set of rules but rather a set of principles that firms should follow when designing and delivering products and services.

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The Consumer Duty is not only about compliance with regulations but also about creating a culture of accountability and responsibility within financial services firms. Business owners and compliance professionals must ensure that their firms' policies, procedures, and practices align with the Consumer Duty's principles.

The implications of non-compliance with the Consumer Duty can be severe, including fines, reputational damage, and loss of business. Compliance professionals and business owners must, therefore, take steps to ensure that their firms comply with the Consumer Duty's principles and embed them into their business practices.

In summary, the Consumer Duty is a new regulatory framework that aims to improve outcomes for consumers of financial services products. It consists of three key elements - a duty of care, a duty of disclosure, and a duty of diligence - and is applicable to all firms regulated by the FCA. Compliance professionals and business owners must ensure that their firms' policies, procedures, and practices align with the Consumer Duty's principles to avoid potential regulatory and reputational risks.

Objectives of the Consumer Duty

The FCA's Consumer Duty is a regulatory framework that has been designed to ensure that financial services businesses prioritise the needs of their customers. The aim of the Consumer Duty is to create a culture of accountability and responsibility among businesses, where they are required to act in the best interests of their clients. The objectives of the Consumer Duty are therefore paramount to promoting fair treatment of customers and ensuring that businesses remain compliant with the regulatory framework.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

One of the key objectives of the Consumer Duty is to ensure that businesses put their customers' interests first. This means that businesses must take into account the needs and preferences of their clients when developing and delivering their products and services. They must also ensure that their marketing and advertising strategies are clear, fair, and not misleading. By doing so, businesses can build customer trust, which is crucial for their long-term success.

Another objective of the Consumer Duty is to promote transparency and accountability. Businesses must be open and honest with their customers about the risks associated with their products and services. They must also provide clear and concise information about fees, charges, and other costs associated with their offerings. This will help customers make informed decisions about whether to use a particular product or service.

The Consumer Duty also aims to ensure that businesses provide appropriate products and services. This means that businesses must take into account the needs and circumstances of their clients when developing and delivering their offerings. They must also ensure that their products and services are suitable for their customers' needs and objectives. This will help prevent customers from being sold products or services that are not appropriate for their circumstances.



Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Finally, the Consumer Duty aims to ensure that businesses provide ongoing support to their customers. This means that businesses must be available to answer their customers' questions and provide them with the help and guidance they need. They must also ensure that their customers are aware of any changes to their products or services, and that they are provided with appropriate support to manage these changes.

In conclusion, the objectives of the Consumer Duty are designed to promote fair treatment of customers and ensure that businesses remain compliant with the regulatory framework. Compliance professionals and business owners in the financial services industry must therefore prioritise these objectives to build customer trust, promote transparency and accountability, provide appropriate products and services, and provide ongoing support to their customers. By doing so, they can create a culture of accountability and responsibility among businesses, which will ultimately benefit their customers and the wider financial services industry.

Key Principles of the Consumer Duty

The Financial Conduct Authority (FCA) has introduced a new set of rules governing the relationship between financial services providers and their customers, known as the Consumer Duty. The Consumer Duty is a set of principles designed to ensure that customers receive fair treatment from financial services providers, and that the industry as a whole operates in a way that is transparent, accountable, and customer-focused.

There are three key principles of the Consumer Duty that compliance professionals and business owners in the financial services industry need to be aware of. These are:

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

1. Acting in the customer's best interests

The first principle of the Consumer Duty is that financial services providers must act in the best interests of their customers. This means putting the customer's interests ahead of their own, and providing products and services that are suitable for the customer's needs. Financial services providers must also ensure that their customers are fully informed about the products and services they are being offered, including any risks involved.

2. Taking reasonable steps to avoid harm

The second principle of the Consumer Duty is that financial services providers must take reasonable steps to avoid causing harm to their customers. This means identifying and managing any risks associated with their products and services, and taking appropriate action to prevent harm from occurring. Financial services providers must also have effective systems and controls in place to ensure that they are complying with the Consumer Duty.

3. Communicating in a way that is clear, fair, and not misleading

The third principle of the Consumer Duty is that financial services providers must communicate in a way that is clear, fair, and not misleading. This means providing customers with information that is easy to understand and that does not contain any jargon or technical language. Financial services providers must also ensure that their marketing and advertising materials are not misleading, and that they do not make false or exaggerated claims about their products and services.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

In summary, the Consumer Duty is designed to ensure that financial services providers act in the best interests of their customers, take reasonable steps to avoid harm, and communicate in a way that is clear, fair, and not misleading. Compliance professionals and business owners in the financial services industry need to be aware of these key principles and ensure that their businesses are operating in compliance with the Consumer Duty. Failure to comply with the Consumer Duty can result in fines and other penalties, as well as reputational damage to the business.

Best Practices for Business Owners in Complying with the Consumer Duty

Conducting Risk Assessments

One of the key requirements of the FCA's Consumer Duty is for firms to take reasonable steps to assess and mitigate the risks of harm to their customers. This means that firms must have a robust risk assessment process in place to identify and manage potential risks to their customers.

The first step in conducting a risk assessment is to identify the different types of risks that could arise for customers. These risks could include financial loss, physical harm, emotional harm, or any other type of harm that could result from a firm's products or services.

Once the risks have been identified, the next step is to assess the likelihood and severity of each risk. This involves looking at factors such as the nature of the product or service, the customer's circumstances, and the firm's processes and controls.

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Based on the assessment, the firm should then develop a risk management plan to mitigate the identified risks. This plan should include specific actions that the firm will take to reduce or eliminate the risks, as well as a timeline for implementing these actions.

It is important to note that risk assessments should be an ongoing process, rather than a one-time event. Firms should regularly review their risk assessments and risk management plans to ensure that they remain up-to-date and effective.

In addition to conducting internal risk assessments, firms should also consider engaging with external experts to gain additional insights and perspectives on potential risks. This could include consulting with industry associations, regulatory bodies, or other subject matter experts.

Overall, conducting risk assessments is a critical component of complying with the FCA's Consumer Duty. By taking a proactive approach to identifying and managing potential risks to their customers, firms can help to ensure that they are providing products and services that are safe, fair, and suitable for their customers' needs.

Implementing Effective Governance and Oversight

Effective governance and oversight are critical components of any financial services business. Proper governance ensures that the organisation is managed in a responsible and ethical manner, while oversight ensures that the business is compliant with all relevant regulations. In the context of the FCA's Consumer Duty, effective governance and oversight are essential to ensuring that customers are treated fairly and that their best interests are always kept in mind.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

The FCA's Consumer Duty places a significant emphasis on the need for financial services businesses to act in the best interests of their customers. This means that companies must prioritise customer outcomes, be transparent about the products and services they offer, and ensure that customers are fully informed about any risks associated with those products and services. Effective governance and oversight are crucial to achieving these goals.

To implement effective governance and oversight, businesses should focus on the following areas:

- 1. Board-level oversight:** The board of directors must take an active role in ensuring that the business is compliant with all relevant regulations and that customer outcomes are prioritised. This includes regular reviews of the company's policies and procedures, as well as discussions about how the business can improve its customer-centric approach.
- 2. Risk management:** Effective risk management is essential to ensuring that customers are protected from harm. This includes identifying and assessing potential risks, implementing appropriate controls to mitigate those risks, and regularly reviewing and updating risk management processes.

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3. Compliance monitoring: Compliance monitoring should be a regular part of the business's operations. This includes regular reviews of the company's policies and procedures, as well as ongoing monitoring of customer outcomes to ensure that they are in line with the FCA's Consumer Duty.

4. Training and development: All employees should receive regular training on the FCA's Consumer Duty and on the company's policies and procedures. This can help to ensure that everyone within the organisation is aligned with the company's values and goals.

5. Customer feedback: Regular feedback from customers can provide valuable insights into the effectiveness of the company's governance and oversight processes. This feedback should be used to identify areas for improvement and to make changes to policies and procedures as necessary.

Overall, effective governance and oversight are essential to ensuring that financial services businesses comply with the FCA's Consumer Duty. By prioritizing customer outcomes, implementing appropriate risk management processes, and maintaining a culture of compliance, businesses can build trust with their customers and create long-term success.

Ensuring Transparency and Fairness

Ensuring transparency and fairness is a crucial aspect of complying with the FCA's Consumer Duty. As a business owner in the financial services industry, it is your responsibility to provide your customers with clear and understandable information and to treat them fairly.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

One way to ensure transparency is to provide customers with clear and concise information about your products and services. This information should include all the relevant terms and conditions, fees and charges, and any potential risks associated with the product or service. It should be presented in a way that is easy to understand and accessible to all customers.

Another important aspect of transparency is to be open and honest with your customers about any conflicts of interest that may arise. This includes disclosing any financial incentives or other benefits that you may receive for promoting a particular product or service. It is essential to ensure that your customers are fully informed about any potential conflicts of interest so that they can make an informed decision about whether to use your products or services.

Fairness is also a critical element of complying with the FCA's Consumer Duty. As a business owner, you must ensure that you treat all customers fairly, regardless of their background or circumstances. This includes treating customers with respect, providing them with the information they need to make informed decisions, and resolving any complaints or disputes in a timely and fair manner.

To ensure fairness, it is also important to have clear and consistent policies and procedures in place for dealing with customers. This includes having robust complaints handling procedures that are accessible to all customers and ensuring that your staff are trained to deal with complaints in a fair and professional manner.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

In summary, ensuring transparency and fairness is essential for complying with the FCA's Consumer Duty. As a business owner in the financial services industry, you must provide clear and understandable information to your customers, disclose any conflicts of interest, and treat all customers fairly. By doing so, you will not only comply with your legal obligations but also build trust and loyalty with your customers.

Providing Clear Information to Consumers

Providing Clear Information to Consumers

One of the key elements of the FCA's Consumer Duty is the provision of clear information to consumers. This is critical for ensuring that consumers are able to make informed decisions about financial products and services, and that they are not misled or confused by complex or opaque information.

As a business owner in the financial services industry, it is important to understand the requirements of the Consumer Duty in relation to providing clear information to consumers. This includes:

1. Providing information that is clear, concise, and easy to understand

Consumers should be able to understand the key features of a financial product or service without having to wade through complex jargon or technical language. As such, it is important to ensure that all information provided to consumers is clear, concise, and easy to understand. This may involve simplifying complex concepts, providing clear explanations of technical terms, and using plain language wherever possible.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

2. Providing information in a timely manner

Consumers should be provided with information about financial products and services in a timely manner, so that they have sufficient time to review and consider the information before making a decision. As such, it is important to ensure that all information is provided in a timely manner, and that consumers are given sufficient time to review and ask questions before making a decision.

3. Providing information in a format that is accessible to all consumers

Consumers come from a wide range of backgrounds and may have different needs when it comes to accessing information. As such, it is important to ensure that all information is provided in a format that is accessible to all consumers, including those with disabilities or who may have limited literacy skills. This may involve providing information in audio or visual formats, or providing translations or other language support.



4. Ensuring that all information is accurate and up-to-date

Consumers rely on information provided by financial services providers to make informed decisions about financial products and services. As such, it is critical that all information is accurate and up-to-date, and that any changes or updates are communicated to consumers in a timely manner.

By providing clear and accessible information to consumers, financial services providers can help to ensure that consumers are able to make informed decisions about financial products and services. This not only helps to build trust and confidence in the financial services industry, but also helps to promote fair and transparent practices that benefit consumers and the wider economy.

Addressing Conflicts of Interest

Conflicts of interest can arise in any business, but they are particularly important to address in the financial services industry. The FCA's Consumer Duty requires firms to act in the best interests of their customers, and conflicts of interest can undermine this duty.

A conflict of interest occurs when a firm or individual has competing interests that could influence their behavior. For example, a financial advisor may receive a commission for recommending a particular investment, which could lead them to recommend it even if it is not the best option for the customer.

To comply with the Consumer Duty, firms must identify and address conflicts of interest. This means taking steps to ensure that the interests of the customer are always put first. Here are some best practices for addressing conflicts of interest:

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

1. Identify potential conflicts of interest

The first step is to identify any potential conflicts of interest. This could include situations where a firm or individual has a financial interest in a particular product or service, or where they have a personal relationship with a customer that could influence their behaviour.

2. Disclose conflicts of interest

If a conflict of interest cannot be avoided, it must be disclosed to the customer. This means being transparent about any financial incentives or other factors that could influence the advice or recommendations given.

3. Manage conflicts of interest

Where possible, firms should take steps to manage conflicts of interest. This could include implementing policies and procedures to ensure that advice is always in the best interests of the customer, or putting in place measures to prevent financial incentives from influencing behaviour.

4. Monitor and review

Finally, it is important to monitor and review conflicts of interest on an ongoing basis. This means regularly assessing whether any new conflicts have arisen, and taking steps to address them if they have.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

By addressing conflicts of interest, firms can ensure that they are complying with the Consumer Duty and acting in the best interests of their customers. This not only helps to build trust and confidence in the financial services industry, but it also helps to protect customers from potential harm.

Monitoring and Reporting on Compliance

As a compliance professional or business owner in the financial services industry, it's crucial to understand the importance of monitoring and reporting on compliance. The FCA's Consumer Duty requires firms to act in the best interests of their customers, and monitoring and reporting on compliance is a key aspect of meeting this obligation.

Monitoring compliance involves regularly reviewing policies, procedures, and practices to ensure they align with the FCA's rules and regulations. It's essential to identify any potential risks and take appropriate measures to mitigate them. This can involve conducting regular audits, reviewing complaints and feedback from customers, and monitoring the actions of staff and third-party providers.

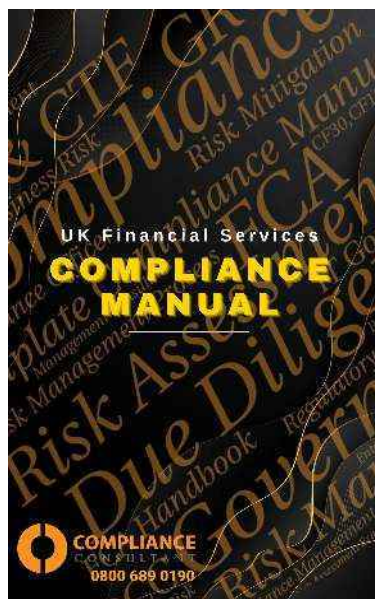
Reporting on compliance involves providing regular updates to the FCA on the firm's compliance status. This can involve submitting regular reports, completing surveys, and responding to requests for information. It's important to be transparent and honest in reporting on compliance, as any issues or non-compliance can have severe consequences for both the firm and its customers.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

One effective way to ensure compliance is to establish a compliance monitoring program that outlines the firm's policies, procedures, and practices for monitoring and reporting on compliance. This program should be regularly reviewed and updated to ensure it remains aligned with the FCA's rules and regulations.

One critical aspect of monitoring and reporting on compliance is ensuring that all staff are aware of their responsibilities and obligations. This can involve providing regular training and education on the FCA's rules and regulations, as well as the firm's policies and procedures. Staff should also be encouraged to report any potential compliance issues or concerns promptly.

In conclusion, monitoring and reporting on compliance is a crucial aspect of meeting the FCA's Consumer Duty. Compliance professionals and business owners in the financial services industry must establish effective monitoring and reporting practices to ensure they act in the best interests of their customers. By regularly reviewing policies, procedures, and practices, providing training and education to staff, and being transparent and honest in reporting on compliance, firms can meet their obligations and maintain the trust of their customers.



The Role of Compliance Professionals in Ensuring Compliance with the Consumer Duty

Duties and Responsibilities of Compliance Professionals

Compliance professionals and business owners in the financial services industry have a crucial role to play in ensuring that their organisations comply with the FCA's Consumer Duty. The Consumer Duty requires firms to act in the best interests of their customers, to pay due regard to their customers' outcomes, and to communicate in a way that is clear, fair, and not misleading. Compliance professionals are responsible for ensuring that their organisations meet these obligations, and they play a vital role in protecting customers and building trust in the industry.

One of the key duties of compliance professionals is to ensure that their organisations have appropriate policies and procedures in place to meet the requirements of the Consumer Duty. This may include conducting risk assessments, developing training programs for staff, and monitoring compliance with the relevant regulations. Compliance professionals must also keep up to date with any changes to the regulatory framework and advise their organisations on how to adapt to new requirements.

Another important responsibility of compliance professionals is to ensure that their organisations are transparent in their dealings with customers. This means providing clear and concise information about products and services, including any risks or limitations, and ensuring that customers understand the terms and conditions of their agreements. Compliance professionals must also monitor customer complaints and take appropriate action to address any issues that arise.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Compliance professionals are also responsible for ensuring that their organisations abide by the FCA's rules on fair treatment of customers. This includes treating customers with respect, avoiding any discriminatory practices, and ensuring that customers are not misled or given false information. Compliance professionals must also ensure that their organisations have appropriate systems in place to identify and address any potential conflicts of interest that may arise.

In summary, compliance professionals play a critical role in ensuring that financial services organisations comply with the FCA's Consumer Duty. They are responsible for developing and implementing appropriate policies and procedures, monitoring compliance, and ensuring that customers are treated fairly and transparently. By fulfilling these duties and responsibilities, compliance professionals can help to build trust in the industry and protect the interests of consumers.

Skills and Competencies Required for Effective Compliance

Compliance professionals and business owners in the financial services industry need to possess specific skills and competencies to ensure effective compliance with the FCA's Consumer Duty. These skills enable them to understand FCA regulations, implement policies and procedures that comply with these regulations, and communicate effectively with clients.

One of the essential skills required for effective compliance is an understanding of FCA regulations. Compliance professionals and business owners need to be familiar with the FCA's Consumer Duty and other relevant regulations, such as the General Data Protection Regulation (GDPR). They should have the ability to interpret these regulations and understand how they apply to their business.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Another important skill for compliance professionals and business owners is the ability to develop policies and procedures that comply with FCA regulations. They should have experience in drafting policies and procedures that are clear, concise, and easy to follow. They should be able to implement these policies and procedures effectively, ensuring that all employees understand their responsibilities and obligations.

Effective communication skills are also essential for compliance professionals and business owners. They should be able to communicate effectively with clients, explaining complex regulations in simple terms. They should be able to provide guidance and advice to clients, and answer any queries they may have.

In addition to these skills, compliance professionals and business owners should possess specific competencies. For example, they should have a strong attention to detail, ensuring that all regulatory requirements are met. They should be able to work well under pressure, managing multiple tasks and deadlines. They should also be able to work collaboratively, building strong relationships with colleagues and clients.

In conclusion, compliance professionals and business owners in the financial services industry need to possess specific skills and competencies to ensure effective compliance with the FCA's Consumer Duty. These skills enable them to understand FCA regulations, develop policies and procedures that comply with these regulations, and communicate effectively with clients. By possessing these skills and competencies, compliance professionals and business owners can ensure that their business operates in a compliant and ethical manner, providing the best possible outcomes for their clients.

Building Effective Compliance Programs

In today's financial services industry, compliance is more important than ever. With increased regulatory scrutiny and the FCA's Consumer Duty, businesses need to ensure they have effective compliance programs in place to protect their customers and their reputation.

A compliance program is a set of policies, procedures, and controls designed to ensure that a business complies with all applicable laws and regulations. An effective compliance program can help a business identify and mitigate risks, avoid costly fines and penalties, and build trust with its customers.

So, how can businesses build effective compliance programs? Here are some best practices to consider:

1. Establish a Compliance Culture

Compliance should be a top priority for everyone in the organisation, from senior management to frontline staff. A compliance culture starts with clear communication of the importance of compliance and regular training to ensure everyone understands the company's policies, procedures, and expectations.

2. Conduct Risk Assessments

A risk assessment can help businesses identify potential compliance risks and prioritise their efforts. Businesses should conduct regular risk assessments to stay up-to-date on changing regulations and emerging risks.

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3. Develop Written Policies and Procedures

Written policies and procedures can provide clear guidance for employees on how to comply with regulations. Policies and procedures should be regularly reviewed and updated to reflect changes in the regulatory environment.

4. Implement Monitoring and Testing

Monitoring and testing can help businesses identify compliance issues before they become serious problems. This can include regular audits of compliance processes and procedures, as well as ongoing monitoring of customer interactions and transactions.

5. Respond to Issues Promptly

When compliance issues do arise, businesses should have a clear process in place for investigating and resolving them. This can include conducting internal investigations, making any necessary changes to policies and procedures, and reporting any violations to regulatory authorities.

In conclusion, building effective compliance programs is essential for businesses in the financial services industry. By establishing a compliance culture, conducting risk assessments, developing written policies and procedures, implementing monitoring and testing, and responding to issues promptly, businesses can protect their customers and their reputation while staying on the right side of the law.

Tools and Techniques for Monitoring Compliance

Compliance professionals and business owners in the financial services industry are required to adhere to the FCA's Consumer Duty. This means that they must ensure that their products and services are designed and delivered in a way that meets the needs of their customers fairly. In order to ensure that they are complying with this duty, it is important for businesses to have the right tools and techniques for monitoring compliance.

One of the most important tools for monitoring compliance is a compliance management system (CMS). This system should be designed to identify and manage compliance risks, as well as to ensure that the business is meeting its obligations under the Consumer Duty. The CMS should also be used to monitor and report on compliance, and to identify areas where improvements can be made.

Another important tool for monitoring compliance is a risk assessment framework. This framework should be used to identify and assess the risks associated with the business's products and services, as well as to identify any gaps in the business's compliance processes. The risk assessment framework should be regularly reviewed and updated to ensure that it remains relevant and effective.

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Businesses should also have a range of techniques for monitoring compliance. These may include regular audits, reviews of customer feedback, and monitoring of sales processes. Audits should be conducted by an independent third party to ensure that they are objective and unbiased. Reviews of customer feedback should be used to identify any areas where the business is falling short of its obligations under the Consumer Duty. Monitoring of sales processes should be used to ensure that the business is not selling products or services that are not suitable for its customers.

In addition to these tools and techniques, businesses should also ensure that they have a culture of compliance. This means that all employees should be aware of their obligations under the Consumer Duty, and should be encouraged to report any compliance issues or concerns. The business should also have a clear and effective whistleblowing policy, which allows employees to report any concerns without fear of retaliation.

In conclusion, complying with the FCA's Consumer Duty is essential for businesses in the financial services industry. Having the right tools and techniques for monitoring compliance is key to ensuring that the business meets its obligations under the Consumer Duty. By using a compliance management system, a risk assessment framework, and a range of monitoring techniques, businesses can ensure that they are delivering products and services that meet the needs of their customers fairly.

Challenges and Opportunities in Complying with the Consumer Duty

Identifying Common Compliance Challenges

As the financial services industry continues to evolve, compliance professionals and business owners must remain vigilant in identifying and addressing common compliance challenges. The Financial Conduct Authority's (FCA) Consumer Duty has added another layer of complexity to an already complex regulatory landscape, making it more important than ever to stay informed and up-to-date.

One of the most common compliance challenges is ensuring that the necessary policies and procedures are in place to comply with regulatory requirements. This can include everything from data protection and anti-money laundering to customer due diligence and fraud prevention. Failure to comply with these regulations can result in hefty fines and reputational damage, which can have a significant impact on a business's bottom line.

Another challenge is keeping up with changes in regulatory requirements. The FCA's Consumer Duty is a prime example of this, as it requires financial services firms to take a more customer-centric approach to their business practices. This means that firms must be able to demonstrate that they are putting their customers' interests first, which can be difficult to do if they are not keeping up with the latest regulatory guidance.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

A lack of staff training and awareness is another common compliance challenge. It is essential that all employees understand their responsibilities when it comes to compliance, including the importance of reporting any potential breaches or suspicious activity. This requires ongoing training and awareness-raising initiatives to ensure that everyone in the organisation is on the same page.

Finally, compliance professionals and business owners must be aware of the potential risks associated with new products and services. This includes conducting thorough risk assessments and ensuring that the necessary controls are in place to mitigate these risks. Failure to do so could result in significant financial and reputational damage to the business.

In conclusion, identifying common compliance challenges is essential for compliance professionals and business owners in the financial services industry. By staying informed and addressing these challenges proactively, firms can ensure that they are operating within regulatory requirements and protecting their customers' interests.

Strategies for Overcoming Compliance Challenges

Complying with the FCA's Consumer Duty is an essential part of operating in the financial services industry. The Consumer Duty sets out the FCA's expectations for firms to act in the best interests of their customers, treat them fairly, and provide them with appropriate products and services. However, compliance can be challenging, especially for businesses that are new to the industry or have a limited understanding of the regulations.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

To help businesses overcome these challenges, it is important to develop effective strategies that can help them meet their compliance obligations. Here are a few strategies that businesses can use to overcome compliance challenges:

1. Develop a Compliance Culture: A strong compliance culture is essential for any business that wants to stay compliant with the FCA's Consumer Duty. This means educating employees about the regulations, creating policies and procedures that reflect the FCA's expectations, and encouraging a culture of transparency and ethical behavior.

2. Use Technology: Technology can be a valuable tool for businesses looking to comply with the FCA's Consumer Duty. Automated compliance software can help businesses identify potential compliance risks, monitor their compliance activities, and generate reports that demonstrate their compliance efforts.

3. Stay Up-to-Date on Regulations: The financial services industry is constantly evolving, and businesses need to stay up-to-date with the latest regulations to ensure they are compliant. Businesses should regularly review their compliance policies and procedures to ensure they are in line with the latest regulations and guidelines.

4. Conduct Regular Compliance Audits: Regular compliance audits can help businesses identify potential compliance risks and take steps to address them. These audits can also help businesses demonstrate their compliance efforts to regulators and customers.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

5. Seek Professional Help: **Compliance Consultant** can provide valuable guidance and support to businesses looking to comply with the FCA's Consumer Duty. These professionals can help businesses develop effective compliance strategies, implement effective compliance programs, and stay up-to-date with the latest regulations.

In conclusion, compliance with the FCA's Consumer Duty is critical for businesses operating in the financial services industry. By developing effective compliance strategies, businesses can overcome the challenges of compliance and ensure they are acting in the best interests of their customers.

Leveraging Compliance Opportunities

Complying with the FCA's Consumer Duty is not just a regulatory requirement; it can also be an opportunity for businesses to differentiate themselves from their competitors. By going above and beyond the minimum requirements, businesses can build trust with their customers, enhance their reputation, and ultimately increase their bottom line.

One way to leverage compliance opportunities is by adopting a customer-centric approach that puts the needs of consumers at the forefront of all business decisions. This means understanding the needs and preferences of your target audience and tailoring your products and services to meet those needs. It also means providing clear and concise information about your products and services, including any risks and fees associated with them.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Another way to leverage compliance opportunities is by embracing technological innovations that can help you better serve your customers while also meeting regulatory requirements. For example, the use of artificial intelligence and machine learning can help businesses identify potential issues before they become major problems, while also improving the overall customer experience.

In addition, businesses can leverage compliance opportunities by participating in industry initiatives and working collaboratively with other stakeholders to promote best practices and raise standards across the industry. This can include participating in industry associations, attending industry events, and engaging with regulators to provide feedback on proposed regulations and guidance.

Overall, complying with the FCA's Consumer Duty can be a win-win for both businesses and consumers. By adopting a customer-centric approach, embracing technological innovations, and participating in industry initiatives, businesses can build trust with their customers, enhance their reputation, and ultimately increase their bottom line. Compliance professionals and business owners in the financial services industry should view compliance as an opportunity, not just a regulatory requirement, and embrace the benefits that come with it.



Conclusion

Recap of Key Points

Throughout this book, we have covered the important aspects of complying with the FCA's Consumer Duty. As compliance professionals and business owners in the financial services industry, it is crucial to understand the requirements of the FCA and how to implement them effectively in your business.

Here are some key points to remember:

1. The FCA's Consumer Duty is a set of rules designed to ensure that consumers are treated fairly by financial services firms.
2. The Consumer Duty has three main elements: acting in the best interest of the consumer, taking reasonable care to ensure the consumer gets a good outcome, and communicating clearly and effectively with the consumer.
3. Business owners and compliance professionals should conduct regular assessments of their business practices to ensure they are in line with the Consumer Duty.
4. It is important to have clear and concise communication with consumers, including providing them with all relevant information in a way that is easy to understand.
5. The FCA encourages firms to use behavioural science to better understand consumer behaviour and tailor their products and services accordingly.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

6. Firms should have robust complaints procedures in place and take all complaints seriously, using them as an opportunity to learn and improve.
7. Training and development should be provided to all staff members to ensure they understand the Consumer Duty and how it applies to their role within the business.
8. Firms should regularly review their products and services to ensure they are meeting the needs of consumers and complying with the Consumer Duty.

Overall, complying with the FCA's Consumer Duty is essential for maintaining the trust and confidence of consumers and ensuring the long-term success of your business. By implementing best practices and staying up-to-date with regulatory requirements, you can create a culture of compliance and build a strong reputation in the industry.

Future Outlook for the Consumer Duty

The future outlook for the consumer duty is one of increased regulation and scrutiny. The FCA has made it clear that it expects firms to put the interests of their customers at the heart of their business, and to demonstrate this through their actions and policies.

As a result, we can expect to see more frequent and rigorous assessments of firms' compliance with the consumer duty, as well as increased enforcement action against those that fail to meet the FCA's expectations.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

In order to stay ahead of the curve, businesses must ensure that they have robust policies and procedures in place to demonstrate their commitment to the consumer duty. This may include conducting regular reviews of customer outcomes, developing customer-centric products and services, and providing clear and transparent information to customers.

One area that is likely to receive increased attention in the coming years is the use of technology in financial services. The FCA has already expressed its concerns about the potential for technology to be used in ways that are harmful to consumers, such as through the use of automated decision-making processes that may result in unfair outcomes.

Businesses must therefore ensure that they are using technology in a responsible and ethical manner, and that they are taking steps to mitigate any potential risks to consumers.

Overall, the future outlook for the consumer duty is one of increased regulation and scrutiny, but also of opportunity for businesses that are able to demonstrate their commitment to putting the interests of their customers first. By staying ahead of the curve and implementing best practices for compliance with the consumer duty, businesses can position themselves for success in the years to come.



Call to Action for Business Owners and Compliance Professionals.

The Financial Conduct Authority's (FCA) Consumer Duty is a critical part of ensuring that businesses operating in the financial services industry are meeting the needs and expectations of their clients. Compliance professionals and business owners have a vital role in ensuring that they are meeting these requirements and delivering the best possible outcomes for consumers.

As a compliance professional or business owner, it is essential to understand the requirements of the FCA's Consumer Duty and how it applies to your business. This includes understanding the three key elements of the Consumer Duty, which are:

- 1. Know your customer - understanding your customer's needs, objectives, and preferences to provide suitable products and services.**
- 2. Sustain your customer's interests - putting your customer's interests at the heart of your business model and ensuring that your products and services deliver the outcomes that your customers expect.**
- 3. Act in good faith - treating your customers fairly and with integrity, building trust and confidence in your business.**

To meet these requirements, it is important that compliance professionals and business owners embed the Consumer Duty into their business practices. This means taking a proactive approach to understanding your customers, their needs and preferences, and ensuring that your products and services are designed to meet their needs.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

It is also important to have robust governance structures in place to ensure that your business is delivering on its commitments to customers. This includes having clear policies and procedures in place, conducting regular reviews of your products and services, and ensuring that your staff are trained to deliver on the Consumer Duty.

As a compliance professional or business owner, you have a responsibility to ensure that your business is meeting the requirements of the FCA's Consumer Duty. This means taking a proactive approach to understanding your customers, designing products and services that meet their needs, and embedding the Consumer Duty into your business practices.

By doing so, you will not only be meeting your regulatory obligations but also building trust and confidence in your business, and delivering the best possible outcomes for your customers. So, the call to action is to take action and make sure that your business is complying with the FCA's Consumer Duty.

Appendix - FCA Consumer Duty Questionnaire & Report Checklist

<https://www.fca.org.uk/publication/finalised-guidance/fg22-5.pdf>

What is changing

The FCA are introducing rules comprising:

A new Consumer Principle that requires firms to act to deliver good outcomes for retail customers. Cross-cutting rules providing greater clarity on our expectations under the new Principle and helping firms interpret the four outcomes (see below).

Rules relating to the four outcomes we want to see under the Consumer Duty. These represent key elements of the firm-consumer relationship which are instrumental in helping to drive good outcomes for customers.

The Consumer Duty is underpinned by the concept of reasonableness. The FCA expect rules and guidance to be interpreted in line with the standard that could reasonably be expected of a prudent firm:

Carrying on the same activity in relation to the same product or service. With the necessary understanding of the needs and characteristics of its customers.

These outcomes relate to:

- products and services

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- price and value
- consumer understanding
- consumer support **

Consumer Credit

The lender is not responsible for ensuring that the third party is fully compliant with the Duty.

Acting as agent/AR

Principal firms are required to oversee the actions of their appointed representatives, as set out in the Supervision sourcebook (SUP), and should check they comply with the Duty when doing so.

Principal payments and e-money firms are responsible for the actions of their agents and distributors, as set out in the EMRs and the PSRs. We expect them to have appropriate systems and controls in place to oversee their agents' and distributors' activities effectively. As part of this, they should comply with the Duty.

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.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

The Four Outcomes

The Four Outcomes represent the key elements of the firm-customer relationship: how firms design, sell and service products and services, and the key contact points along the customer journey. The Four Outcomes are the following:

Quality of products and services

The FCA wants all products and services to be fit for purpose (i.e., designed to meet consumers' needs and targeted at them). The proposed rules will apply in relation to all new products and/or services, or even to any significant adaptations to said products or services, before those are marketed or distributed to retail consumers. The rules will also apply to existing products and services before they are sold to new customers.

Senior management will be expected to ensure that the likely outcomes customers will receive from the products and services sold are properly assessed and documented.

Price and value of products and services

Following the implementation of the Consumer Duty, the assessment of whether the price of a product or service provides for a fair value must - consider at least the following factors: the nature of the product or service; any limitations that form part of a given product or service; the price consumers will pay; as well any characteristics of vulnerability amongst the targeted audience.

Senior management will be expected to document and evidence that the firms' products and services are delivering fair value for customers and are being regularly assessed.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Consumer understanding Firms' communications must support consumers and enable them to make informed decisions about financial products and services. To achieve this, communications must be tailored according to the characteristics of the intended audience, the complexity of the product, the communication channel used, and the role of the firm; be communicated to retail customers in a way that is clear, fair and not misleading; and provide information to retail customers that is accurate, relevant; and on a timely basis.

Senior management must ensure that customer communications are transparent and fully disclose all costs and fees involved. They will also be responsible for establishing an effective complaint-handling process for consumers who might not fully understand the fees' structure or might be dissatisfied with the level of fees charged.

Consumer support Firms will be required to provide a level of support that meets consumers' needs throughout their relationship with the firm. Firms must not disadvantage retail customers, including those in vulnerable circumstances; must ensure customers can use products as reasonably anticipated; and ensure that consumers do not face unreasonable barriers (including unreasonable costs) when pursuing their financial objectives.

Senior management will be expected to commission regular reviews on the level of service provided to customers through complaints' analysis and call monitoring.

Notes Consumer Credit The lender is not responsible for ensuring that the third party is fully compliant with the Duty.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Acting as agent/AR Principal firms are required to oversee the actions of their appointed representatives, as set out in the Supervision sourcebook (SUP), and should check they comply with the Duty when doing so.

Principal payments and e-money firms are responsible for the actions of their agents and distributors, as set out in the EMRs and the PSRs. We expect them to have appropriate systems and controls in place to oversee their agents' and distributors' activities effectively. As part of this, they should comply with the Duty.

Before you start

- Are you clear about the status of the company?
- What is the Reg Capital?
- What do their permissions cover?
- Who are the major players/UBOs?
 - Shareholder Directors?
 - Non-Executive Directors?
 - Executive Directors (non-equity)
 - Company structure & Reporting Lines?

Senior Management Responsibilities (Map if possible)

- Compliance Oversight & MLRO?
- SMF for Risk management?
- SMF3 and SMF1's?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- Certificated Persons
- Do you know who the Fund Managers/Platform Providers/Manufacturers of products are?

Documents Needed & Questions

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

1. Annual reports – AGM and/or Business Plan
2. Business Risks annual assessment
3. Company Structure/Organisation chart/s
4. Complaint Handling Procedures (Internal and External)
5. Compliance annual report (for at least previous 2 years) (for at least previous 2 years)
6. Contemporary Management Information (MI) provided
7. Director/Partner training on roles & responsibilities evidence
8. Financial Promotion Policy and Log
9. High Level Controls Report/Risk Framework
 - a. Risk Register
 - b. Internal & Compliance Audits or Compliance Monitoring results
 - c. External Audits
 - d. FCA review findings
10. Minutes of key governance committees for previous 12 months (agendas and board packs);
11. MLRO report/s
12. List of Policies - to select policies to review.
13. Procedures for Back office system used
14. TCF Gap analysis
15. Terms of reference for the key Board of Directors/Partnership Meetings over last 12 months (minimum)
16. Training & Competence plan & records
17. Version Control Log/Register

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

18. Conduct Risk Policy & Register

19. Training & Competency plan and records

Are you happy that you understand?

- **Objectives:** What business outcomes are to be achieved?
- **Measures:** What indicators will demonstrate progress and fulfilment?
- **Value:** What is the impact on the client organisation of these objectives?
- **Observations:** This is an exceptions report, and we need to identify errors, anomalies or inconsistencies (with regulation/best practice)
- **Risks/Risk Triggers/Consequences:** Have these been identified and completed?
- **Recommendations:** What is/are the remedial action/s required?
- **References:** Hyperlink the relevant;
 - § references in the handbook (FCA or PRA),
 - § websites (if citing fines or other consequences of identical issues)
 - § other regulators references (ICO)
 - § documents available online
- **Management Response:** We need to make available space to respond to each of the recommendations so the client has an audit trail for their own reference.
- **Overall Statement:** Made sure we have not made the report “Published” or “Final” as this causes issues for the client. The most we label any report is “final draft”.

Expectations

These guides are just that and may/may not require any comments on the various aspects.

These are more for your understanding and appreciation as well as maintaining consistency.

Questionnaire

Best Practice - Bank A bank is developing a communication marketing a new product to send to a cohort of its customers, some of whom are likely to be in vulnerable circumstances. As part of the development process, it hires a specialist agency to test the communication through a randomised controlled trial and suggest changes to meet the communication needs of its customers.

It subsequently adapts the communication, increasing the size of certain key text, simplifying the content with infographics and using a colour scheme friendly to people with conditions such as dyslexia. It also prominently includes a contact number, inviting customers to call if they would like to discuss the communication or obtain it in a different format.

This mitigates the risk of harm that could arise if customers do not understand the information provided, for example if they fail to act on it or take out a product that does not meet their needs. This approach supports customers in making effective decisions.

Best Practice - Investment product - CIP/CRP

A firm seeks feedback from its customers on the first anniversary of a product purchase. The survey responses highlight that a high number of customers say that they have paid unexpected fees in the first year.

In this situation, the FCA would expect the firm to act reasonably to avoid causing harm to customers by reconsidering how understandable their initial product communications are and making appropriate changes to enable customers to understand the fees and make effective decisions.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Best Practice - Retail Sales

A firm that sells products to customers with a lower ability to withstand financial shocks, and which distributes its products via brokers, also contacts consumers directly to talk about their circumstances and understanding of the product.

Another firm, where the sale is on an execution-only basis, contacts the customer to check that they wanted the product in question and to let them know advice is available.

These firms use proactive communication to monitor the understanding of customers in vulnerable circumstances. This helps to ensure consumer harm is avoided and that customers are supported in making effective decisions.

Scope

Details needed

(As applicable for type of firm)

status of the company?

- What is their Reg Capital?
- What do their permissions cover?
- Who are the major players/UBOs? o Shareholder Directors? o Non-Executive Directors? o Executive Directors (non-equity) o Company structure & Reporting Lines?
- Senior Management Responsibilities (Map if possible) o Compliance Oversight & MLRO? o SMF for Risk management? o SMF3 and SMF1's?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- Certificated Persons
- Do you know who the Fund Managers/Platform Providers/Manufacturers of products are?
- What is the company's Value Proposition

DOCUMENTS REQUIRED

1. Annual reports – AGM and/or Business Plan
2. Business Risks annual assessment
3. Company Structure/Organisation chart/s



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4. Complaint Handling Procedures (Internal and External)
5. Compliance annual report (for at least previous 2 years) (for at least previous 2 years)
6. Contemporary Management Information (MI) provided
7. Director/Partner training on roles & responsibilities evidence

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

8. Financial Promotion Policy and Log
9. High Level Controls Report/Risk Framework
 - a. Risk Register
 - b. Internal & Compliance Audits or Compliance Monitoring results
 - c. External Audits
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16. Training & Competence plan & records
17. Version Control Log/Register
18. Conduct Risk Policy & Register

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

19. Training & Competency plan and records

Key Questions

Culture and Governance

- Does the firm's purpose (whether publicly articulated or not) align with its obligations under the Duty? How is it embedded and understood throughout the organisation?
- How does the organisation's culture support the delivery of good outcomes for customers?
- How does the organisation ensure that individuals throughout the organisation – including those in control and support functions – understand their role in delivering the Duty?
- Are staff empowered and feel safe to challenge and raise issues where they feel the firm might not be acting to deliver good outcomes for customers? Are those challenges listened to, and where necessary, acted on?
- Is the Duty being considered in all relevant discussions such as strategy and remuneration? Are customers outcomes a key lens for Risk and Internal Audit?
- How is the firm ensuring that its remuneration and incentive structures drive good outcomes for customers?

Customer outcomes

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- Is the organisation prioritising acting to deliver good outcomes for customers? Are there any areas of concern?
- How is the external environment changing, and how will that impact on the organisation's ability to deliver good outcomes for customers?
- Has the firm identified the key risks to its ability to deliver good outcomes to customers and put appropriate mitigants in place?
- How does the firm define good outcomes (over the short, medium and long term) for customers using its products and services?
- What data does the firm have about its customers and how they use its products? Are there any gaps in the data? What steps is the firm taking to address them?
- What outcomes are customers getting? Are they getting good outcomes which align with their reasonable expectations?
- Are certain groups of consumers getting different outcomes, and if so why?
- What's driving any adverse outcomes?
- What actions is the firm taking to improve outcomes? (Who's accountable for this work, what will improvement look like and when will it happen?)

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

SMCR Impact

SM&CR — FCA propose to amend the individual conduct rules in the Code of Conduct sourcebook (COCON) for the Senior Managers and Certification Regime (SM&CR) adding a new rule requiring all conduct rules' staff within firms to act to deliver good outcomes for retail customers' where their firms' activities fall within scope of the Consumer Duty. Where this new rule applies, the existing individual conduct rule 4 will be disapplied.

- Every senior manager should be clear about what they are responsible and accountable for, and how they are ensuring that the business of the firm complies with the requirements of the Duty on an ongoing basis. Senior managers should expect to be asked about the role that they will play in delivering good outcomes for customers when they are seeking approval or engaging with us.
- Individual conduct rule 6 reflects the new, higher standard of the Duty, and the behaviour we expect of all conduct staff. It requires all conduct rules staff to 'act to deliver good outcomes for retail customers' where the activities of the firm fall within the scope of the Duty.
- This individual conduct rule applies to the extent that it is reasonable and proportionate: the scope of a person's job and their seniority may affect the scope of their obligations under the rule. So, the more senior a person is and the more relevant their role is to the Duty, the more we expect from them in delivering good outcomes for customers.

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- Where firms, such as payment and e-money firms, are not subject to the SM&CR we still expect them to ensure that they have senior management oversight and accountability for the Duty, and to ensure that their staff are acting in accordance with the requirements of the Duty.

Board Report Sect 10 FG22/5

A firm's board, or equivalent governing body, should review and approve an assessment of whether the firm is delivering good outcomes for its customers which are consistent with the Duty, at least annually.



This assessment should include:

- the results of the monitoring that the firm has undertaken to assess whether products and services are delivering expected outcomes in line with the Duty, any evidence of poor outcomes, including whether any group of customers is receiving worse outcomes compared to another group, and an evaluation of the impact and the root cause
- an overview of the actions taken to address any risks or issues
- how the firm's future business strategy is consistent with acting to deliver good outcomes under the Duty.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Areas Covered

Board & Committee minutes Current Business Plan or AGM Statement Company Organisation chart Management information Risk Register Financial Promotions High level controls framework Internal Audit/Compliance Audit/other audits FCA Review Findings & Regulatory Interactions log Sales Scripts/Framework Customer Services MLRO Reports Compliance reports Version Control Log/Register TCF Analysis Conduct Risk Training plan and records AML Process Customer journey Complaints Fraud report Controls Library Website access front and back office. Business objectives Peer reviews for costs and price Product approval process Target Market Incentives Monitoring

- For at least 2 years or since last audit.

Products & Governance

- details of the firm's product approval process
- where more than one firm is involved in manufacturing a product or service, a copy of the written agreement
- records of the target market assessment
- records of the firm's product or service testing, including a record of scenario analysis
- records of information provided to distributors

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- records of any reviews of the product or service, including in relation to action taken to address any identified issues
- records of the firm's oversight and control arrangements
- copies of any compliance reports that comply with PROD

Reference Sect 6 of FG22/5

Monitoring - Sect 11 of FG22/5

The rules require firms to:

- monitor and regularly review the outcomes their customers are experiencing to ensure that the products and services that firms provide are delivering outcomes consistent with the Duty
- identify where customers or groups of customers are not getting good outcomes and understand why
- have processes in place to adapt and change products and services, or policies and practices, to address any risks or issues identified and stop it occurring again in the future
- A firm's governing body should review and approve the firm's assessment of whether it is delivering good outcomes for its customers which are consistent with the Duty and agree any action required, at least annually.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Monitoring outcomes

Firms will need to identify relevant sources of data to enable them to assess whether the outcomes that their customers are experiencing are consistent with their obligations under the Duty.

Through the monitoring of customer outcomes, how does the firm;

- identify and manage any risks to good outcomes for customers
- spot where customers are getting poor outcomes and understand the root cause
- have processes in place to adapt and change products and services, or policies and practices, to address any risks or issues as appropriate
- be able to demonstrate how they have identified and addressed issues leading to poor outcomes

The action that firms should take when they identify problems will vary depending on a range of factors. Potential interventions could include:

- adapting, amending or discontinuing a product or service
- adapting product or service design, fees or charges
- making appropriate changes to the firm's operations
- updating customer support processes or distribution channels

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- modifying communications to make them more easily comprehensible
- providing redress where customers have suffered harm (where appropriate)

Management Information (MI)

Types of information firms may want to collect include:

- Business persistence: analysis of customer retention records – e.g. claims and cancellation rates and details of why customers leave. This may flag where poor treatment is contributing to high customer turnover.
- Distribution of products/pricing and fees and charges: review of whether certain groups of customers are more likely to buy certain products, incur particular fees and charges, or appear to be receiving outcomes that are not as good as other groups of customers.
- Behavioural insights: customer interactions and drop off rates; use of different communications channels including digital; consumer testing of user interfaces and design such as websites and apps, and the results of such testing, e.g. whether consumers changed their behaviour as a result of the design. This would include consumer testing of any gamification elements in the user interface and design of apps. This may flag where firms need to improve policies, processes and systems (e.g. where there are barriers to consumer engagement or understanding).
- Training and competence records: analysis of records of staff training, including remedial actions where staff knowledge or actions were found to be below expectations.

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- File reviews: reviewing customer files and monitoring calls to check for errors and assess if customers received good outcomes (this is particularly useful for sales processes).
- Customer feedback: using formal and informal feedback from customers to identify trends and areas for improvement (e.g. complaints and comments made to the firm but also comments and complaints on social media).
- Numbers of complaints: trends in numbers of complaints involving poor customer outcomes throughout the customer-firm relationship
- Complaints root cause analysis: investigating complaints fully to understand the cause of customer complaints, not just dealing with the symptoms.
- Results of the regular testing and monitoring required under the outcome rules: many of the four outcomes rules include requirements for firms to monitor and review over time. The results of these reviews, together with any action taken would be relevant for consideration of whether the outcomes are being followed.
- Feedback from other parties in the distribution chain such as manufacturers and distributors sharing information about the way in which products are sold, and the extent to which actual sales matched the target market.
- Compliance reports: review compliance reports to check if standards are being met in terms of good outcomes for consumers.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- Researching or testing customer experiences through processes such as mystery shopping, auditing customer journeys, focus groups and deep dives, or working with consumer organisations to gain insight into the needs and experiences of consumers.
- Allowing staff to feed back honestly when they think products or services, or the processes used to deliver them, could be improved.
- Reviewing whether processes and policies are effective in delivering good outcomes for customers.
- Drawing on external sources of data about consumer outcomes. The Financial Lives survey, for example, contains granular data about the financial lives of different groups.

Objectives

Firms will need to identify relevant sources of data to enable them to assess whether the outcomes that their customers are experiencing are consistent with their obligations under the Duty.

Through the monitoring of customer outcomes, we would expect firms to:

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- identify and manage any risks to good outcomes for customers
- spot where customers are getting poor outcomes and understand the root cause
- have processes in place to adapt and change products and services, or policies and practices, to address any risks or issues as appropriate
- be able to demonstrate how they have identified and addressed issues leading to poor outcomes

Enable and support retail customers to pursue their financial objectives

The actions a firm might need to achieve this will be determined by what is within a firm's control, based on their role and knowledge of consumers, for example:

A firm providing advisory or discretionary services would understand more about the consumer's specific objectives and would need to act on that knowledge. For instance, an advice firm should know a consumer has the objective to retire by a particular age or to make sure a dependant is provided for.

FCA guidance provides examples of how firms can support consumers in pursuing their financial objectives across each of the four outcomes. For example, in the context of the consumer understanding outcome, firms can support consumers in pursuing their financial objectives by:

- Considering the characteristics of the consumers that their communications are aimed at and tailoring them accordingly so that they are likely to be understood
- Helping consumers navigate information, making it easy for consumers to identify the key information and their available options.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- Having systems and processes in place to monitor the impact of communications on consumer understanding actions such as cancelling a product or amending terms.

Overview

Firms should be confident that:

- these products or services do not exploit consumer lack of knowledge and/or behavioural biases to enable unfair prices to be charged
- complex pricing and terms do not make it harder for customers to assess value
- there is and remains a reasonable relationship between the price customers pay and the benefits of the product or service
- they have considered whether significant changes to the benefits of a product or service should affect the price: for example, if a firm reduces the benefits available on a product, it should consider if there should be an accompanying reduction in charges for the product

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Regulated v. unregulated activities

The Consumer Duty applies to regulated activities and to unregulated activities which are “ancillary” to regulated activities. The FCA clarified that ancillary activities include unregulated activities necessary for the completion of a regulated activity. Product design and ongoing customer services would be considered ancillary. However, the sale of a separate non-dependent non-financial service at the same time as a regulated product would not be ancillary, e.g. a broker selling boiler insurance and an unregulated routine service plan to the same customer.

Application outside the UK

The Consumer Duty will apply to all firms that conduct regulated activities in the UK. This will include firms in Gibraltar selling in the UK and firms in the temporary permissions regime and financial services contract scheme following Brexit.

Guidance in FG22/5 clarifies that:

UK distributors of non-UK products and services must take all reasonable steps to understand the product or service, the target market it would serve and the value it provides in order to ensure it will be distributed appropriately; and

the Consumer Duty will apply to firms conducting business for non-UK customers in the same manner as for UK-customers. Where a distribution chain includes non-UK distributors who are not subject to the Duty, UK manufacturers are expected to consider what is reasonable in the circumstances to gather information but would not be expected to obtain information from firms that are not subject to the Duty.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Products or services sold to both retail and non-retail customers

The FCA recognised the complexity that exists where products or services are bought by both retail and non-retail customers, but declined to exclude such products and services from the scope of the Consumer Duty. Instead, firms will be expected to consider whether they might be able to develop different communications or support services for the two different groups or take a consistent approach for all customer groups

Due Diligence in distribution chain

What other parties involved?

Liability/Responsibility

Firms are responsible only for their own activities. Outsourced activities as per SYSC 8.

Manufacturers of firms should monitor product and distribution through time.

Insistent clients

How do you deal with an insistent client?

Firms should take steps to ensure that customers understand the risks of their action.

- See policy
- Insistent client log
- How are the risks demonstrated to clients?

Products & Services

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Overall Objectives

Ensure that the design of the product or service meets the needs, characteristics and objectives of customers in the identified target market.

Ensure that the intended distribution strategy for the product or service is appropriate for the target market.

Carry out regular reviews to ensure that the product or service continues to meet the needs, characteristics and objectives of the target market.

The Duty sets a higher expectation for the standard of care that firms give customers.

For many firms, this will require a significant shift in both culture and behaviour, so they consistently focus on customer outcomes, and put consumers in a position where they can make effective decisions.

Firms should ensure that the interests of their customers are central to their culture and purpose and embedded throughout the organisation.

The rules require firms to ensure their strategies, governance, leadership, and people policies (including incentives at all levels) lead to good outcomes for customers. The rules also make clear that we expect customer outcomes to be a key lens for important areas, such as Risk and Internal Audit.

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A firm's board, or equivalent governing body, should review and approve an assessment of whether the firm is delivering good outcomes for its customers which are consistent with the Duty, at least annually.

Individual accountability and high standards of personal conduct in firms will ensure that firms are meeting their obligations under the Duty

List of products, Type, Manufacturer, consider grouping (create matrix to cover salient points; costs, fund charge, ongoing management, complexity (H, M, L),

Cost of products

Standard or enhanced?

Cost of Services

Costs, fees and charges involved with the product or service.

Do you have any any complex charging structures with multiple fees or differential pricing?

How do you demonstrate, test and measure any complex charging structures with multiple fees or differential pricing may carry greater risk of poor outcomes?

Do you include add-ons as standard, or are they purchased after the sale?

How do you prove the relative utility to the client of the product or service as a whole and of specific features, options, or services within the product or service, if subject to separate fees or charges?

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Alignment

Do you discuss the product manufacturer, DFM, Platform etc their target market needs, characteristics and objectives ?

What is the defined target market other than fundamental investment objective and investment risk?

How does the firm's charges and costs fit in with the client profile? (e.g., small pension pot, <£50k for investment etc)

What consideration is paid to short term investors or have low capacity for loss? (e.g., small pension pot, <£50k for investment etc)

The initial target market for a financial advice firm's services might be any customer with a potential pension and investment need. However, the inclusion of high fixed minimum fees in its adviser charging model means that the target market should be refined to exclude customers with very small investment amounts.

How do you define Complexity ?

Complexity of the product or service: Customers may find it more difficult to assess the features, suitability or value of more complicated products or services. For example, this could include products with fewer visible risks, such as investments with non-standard charging structures or other features that may not be easy for clients to understand.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Questions

Do you have any complex or niche products or services where the risks are not always tangible, understood or have varying features over time?

For example, firms selling products which are only likely to be appropriate for a narrow target market should design the clients journey to make this clear and equip customers for whom the product is not designed to understand this.

Or, firms could introduce 'positive friction' to a sales process for a complex and high-risk product. For instance, they could slow down how quickly transactions are made, perhaps by providing additional information.

How often do you review the CIP/CRP or panel products and on average expand or introduce new products?

Adding a new product or service

If you make available a new type of investment product that is more complex and carries additional risks that the target market might not understand, how is this explained/injected into the sales process?

Where is this process defined?

makes available a new type of investment product that is more complex and carries additional risks that the target market might not understand, this is likely to amount to a significant change.

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They should amend the approval process where necessary and have a documents process with approval and sign off after the new product has been satisfactorily embedded.

Withdrawal of a product or service

Similarly to product addition, if your firm decides to withdraw a product or service, how do you assess the impact (if any) on the existing customer outcomes?

Withdrawal of a product or service

The FCA expect it to consider the Duty and the impact withdrawal could have on customer outcomes.

How are more complex products/services monitored to promote/monitor customer understanding?

How does that work?

What monitoring is done on effectiveness?

Do they confirm the options associated with the product or service to the customer?

Terms of Business/Disclosure documentation

Does it include execution only/non-advised services?

Does it include exit costs/switching/transfer etc?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

What happens if you decline to provide a product or do not have one adequately suitable for the client?

How/Is this recorded?

Does this appear in the Terms of Business?

What are the costs, are fees and charges and are they outlined sufficiently?

Does it offer fair value?

Latest Peer check date and results?

Have you got documented risks and benefits to each product or service.

Do the risks outweigh the benefits? What changes could be made to mitigate the risks.

How are the clients made aware of these risks.

How easily can a client exit if they find a more suitable product

Is it as easy to exit as it is to sign up?

How do the above form part of your monitoring programme and ensure that it is assessed through its lifecycle?

How do you ensure the product/service still suits the needs of the target audience and delivers the expected outcome?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

If it does not, how do you consider discounting, adapting the design or offering redress if the client has suffered harm?

Assessing Fair Value

Firms should be confident that:

- these products or services do not exploit consumer lack of knowledge and/or behavioural biases to enable unfair prices to be charged
- complex pricing and terms do not make it harder for customers to assess value
- there is and remains a reasonable relationship between the price customers pay and the benefits of the product or service
- they have considered whether significant changes to the benefits of a product or service should affect the price: for example, if a firm reduces the benefits available on a product, it should consider if there should be an accompanying reduction in charges for the product

For existing products and services

that remain on sale, firms should review any assumptions that formed the basis of the charging structure to consider if material changes since the product or service was launched should be reflected in the assessment of value for new customers going forward.



Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Free products or services

The FCA has also clarified its position on fair value assessments for products and services that don't have any costs for the consumer (eg, free-if-in-credit bank accounts or debt advice funded through other sources). It doesn't expect firms to do a value assessment for these products or services. However, a word of caution - manufacturers providing free products or services should still consider if their customers are paying in nonmonetary terms, and whether those costs are reasonable in relation to the product's benefits. For example, customers may pay for their current accounts in the form of foregone interest, associated fees and charges or using their data.

Sales of mortgage books The FCA recognises the challenges faced by firms purchasing mortgage and credit books in complying with the Consumer Duty. However, acknowledging the risk of regulatory arbitrage (firms selling off credit books to avoid having to undertake fair value assessments, for example), the regulator won't be waiving the new requirements for the purchaser. Instead, the FCA will require those selling such books to provide the information needed by the purchaser to be able to comply with the Duty.

Questions What assumptions were made regarding each segment? Has there been any change to factors within those assumptions? Has your service cost the amount you anticipated?

Existing Benefits and Costs Firms reviewing existing or closed products or services are able to take account of the benefits provided and costs incurred prior to the Duty coming into force.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Vested Rights

For these purposes, vested rights include pre-existing contractual rights to which a firm already has legal entitlement (eg annual fees that are due) and rights to payments falling due on occurrence of a contractually specified event (eg exit charges).

Questions

Do you provide greater flexibility on how customers can engage with a product or assisting a customer to switch to a new product or service that does not have the same issues?

Do you have enhanced or special customer support to help customers avoid the risk materialising?

Do you provide greater flexibility on how customers can engage with a product or assisting a customer to switch to a new product or service that does not have the same issues?

Do you have enhanced or special customer support to help customers avoid the risk materialising?

Non-Vested Rights Where a customer can terminate a contract without an exit charge, firms have no more than an expectation of the customer continuing the contract. In this case, the future payment of charges for a product or service by a customer are not vested rights.

Questions How do you ensure the client is aware of their options? How do you ensure that any features are seen as benefits?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Withdrawing a product or service How would you withdraw/restrict a current product or service without causing harm to existing clients?

Do you have a staged/staggered exit, allowing time and support for clients to find suitable alternatives and ensuring that they communicate any changes in a timely, clear and sensitive manner?

Is this process explained in your disclosure documentation, at least at high level, including setting out what it means for the clients, how you intend communicating alternative solutions, and the consequences to any clients of not acting?

Firms should engage with the FCA if they are considering withdrawing or restricting access to products or services in a way that will have a significant impact on characteristics of vulnerability or on overall market supply

Price & Value Outcome

Assessing Fair Value

Firms should be confident that:

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- these products or services do not exploit consumer lack of knowledge and/or behavioural biases to enable unfair prices to be charged
- complex pricing and terms do not make it harder for customers to assess value
- there is and remains a reasonable relationship between the price customers pay and the benefits of the product or service
- they have considered whether significant changes to the benefits of a product or service should affect the price: for example, if a firm reduces the benefits available on a product, it should consider if there should be an accompanying reduction in charges for the product



Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Key questions for firms

- Is the firm satisfied that it is considering all the relevant factors and available data as part of its fair value assessments? Has it gathered relevant information from other firms in the distribution chain?
- What insight has the firm gained for its value assessments by benchmarking the price and value of its products and services against similar ones in the market? Have the price and value of its older products kept up with market developments?
- Can the firm demonstrate that its products and services are fair value for different groups of consumers, including those in vulnerable circumstances or with protected characteristics?
- If the firm is charging different prices to separate groups of consumers for the same product or service, is the firm satisfied that the pricing is fair for each group?
- What action has the firm taken as a result of its fair value assessments, and how is it ensuring this action is effective in improving consumer outcomes?
- What data, MI and other intelligence is the firm using to monitor the fair value of its products and services on an ongoing basis? How regularly is it reviewing this material, and what action is it taking as a result?

In order to assess if a product or service provides value, firms must consider at least the following:

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- the nature of the product or service, including the benefits that will be provided or may reasonably be expected and their qualities.
- any limitations that are part of the product or service (eg limitations on scope of cover for insurance products), and
- the expected total price customers will pay, including all applicable fees and charges over the lifetime of the relationship between customers and firms.

Depending on the nature of the product or service, firms could conduct customer research, testing or use internal data to assess whether a product or service provides fair value. They should not rely solely on individual consumers to consider whether the price provides fair value in relation to the benefits.

When carrying out value assessments, firms may group similar products together where the customer base, complexity and risk of consumer harm are sufficiently similar. Firms should not group products or services if it could impair their ability to assess each product or service adequately.

See Section 7 of <https://www.fca.org.uk/publication/finalised-guidance/fg22-5.pdf> for different firm type examples.

Under the rules, firms should be ensuring these conditions are met.

A product or service that doesn't meet any of the needs of the customer it is sold to, causes foreseeable harm or frustrates their objectives is unlikely to offer fair value whatever the price.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

A product or service that has negligible or no obvious benefit for consumers is unlikely to provide fair value whatever the price.

Questions

How do you discount or negate any features that are not required?

How do you determine what constitute unsuitable features that can lead to foreseeable harm or frustrate the customer's use of the product or service?

How do you monitor and ascertain what poor communications and consumer support look like or if errors occur?

What RCA do you use to determine features are irrelevant or cause harm, and how does that influence product design?

How do you ensure that the product is sold transparently and meets the needs of the target market?

How do you ensure the clients can exercise choices to switch or exit, and are properly supported in this?

Can you talk someone, with confidence, exactly how your RCA helps you achieve this?

How do you confirm with the manufacturer/provider the results of their value assessment?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

What evidence do you ask for the manufacturer/providers findings?

How do you approach this if the manufacturer/provider is outside the UK/Offshore?

Do you charge servicing fees?

How are these fees charged, set fee? %?

If there is a percentage charge in relation to the size of a loan, investment or savings. In this case, some consumers may pay substantially larger fees than others, even though the costs of providing the service and the benefits consumers receive may be similar. In such circumstances, firms must consider whether the relationship of the price consumers in different groups pay is reasonable relative to the benefits they receive.

Similarly, sometimes firms may charge fixed fees on their products. For example, multiple fixed fees on customers with small amount of funds invested might result in overall poor value. In such circumstances, firms must consider whether their charges provide fair value for their target market.

Further Check. How do you identify there elements of the pricing structure that could lead to foreseeable harm?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Are there fees or charges or rates which appear unjustifiably or unreasonably high compared to the benefits of the product and other comparable products (either in the firm's product portfolio or comparable products supplied by other firms)?

Should/have any changes in the benefits of the product been reflected in the price?

Should/have any material changes to assumptions that underpinned pricing (for example on costs of servicing) been reflected in changes to the price?

The CD also does not mean that firms are expected only to offer products and services at a low price.

Products or services that cost more for customers may well provide value if that reflects their quality and benefits.

Distribution Costs

Where different firms are involved in the distribution chain for an investment product, they all have responsibility to consider fair value as part of avoiding foreseeable harm and helping support customers in pursuing their financial objectives.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

The fund manager: The firm must assess whether their charges levied are justified in the context of the overall value of the product. **The platform provider:** The firm must set fair value charges for using the platform. In some cases, the platform provider will be the final firm in the distribution chain. As such, the platform provider will need to consider the overall impact of the remuneration added by each person in the chain on the value of the product to the consumer. **The financial adviser:** The firm must consider if its advice charges provide fair value. In addition, it must consider the relationship between the overall cost to the customer (including all product and distribution charges in the distribution chain) and the expected benefits from the product.

The distributor does not need to carry out a value assessment – though they must confirm that the manufacturer has carried out a value assessment and review the information shared by the manufacturer to understand the benefits for the target market before they distribute.

Firms also need to consider whether consumers will incur other costs which may not be financial. Non-financial costs may include:

How do you estimate/calculate the time and effort it takes to access, assess and act to buy, amend, switch or cancel a product

How do you assess the cost of your firms' use of consumer data where consumers knowingly or unknowingly 'pay' with their data, privacy or attention?

The FCA have seen evidence of customer data being monetised to derive income and benefit for firms. Some firms routinely engaged with third party providers by buying and selling customer data. They found that firms were unable to articulate how the customer was receiving fair value in the provision and use of their personal data.

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Firms should make explicit consideration of consumers' data if this is being monetised. While the FCA do not necessarily expect non-tangible costs and benefits to be monetised, they do require firms to make at least a qualitative consideration of how this affects the overall value proposition for the consumer.

Investment management The FCA has also highlighted some important differences from the consultation proposals for investment managers.

The existing product governance provisions in PROD 3 apply as guidance to asset managers, and some firms in this sector follow the guidance as if it were rules. PS22/9 includes new application provisions (PRIN 2A.3) to clarify that firms aren't subject to both sets of rules (ie, PROD 3 and Consumer Duty product outcome rules). Firms that currently follow PROD 3 as guidance may choose whether to follow the rules in PROD or those under the Consumer Duty products and services outcome. Failing to comply with PROD would be taken as failing to comply with the products and services outcome.

Non-investment insurance Similarly, the FCA has confirmed that firms that meet the value rules in PROD 4 for non-investment insurance, or COLL 6.6, COLL 8.5 or COLL 15.7 for asset management, will meet the expectations of the price and value outcome.



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Monitoring Fair Value Firms must get all necessary information to enable them to understand and monitor consumer outcomes. Firms should consider their record keeping obligations in the Senior Management Arrangements, Systems and Controls sourcebook (SYSC) and in line with these, should consider what records they should maintain of their value assessments. We expect that firms are able to clearly demonstrate how any product or service provides fair value.

Management Information What criteria do you set for monitoring? How is this reported to Senior Management? Is there a reduction of reporting as the MI escalates the chain of command? How do you monitor market conditions? How do you assess procedures are followed? What complaints data is included in your MI?

What is the expected price paid by customers, including associated fees and charges and those incurred further down the distribution chain

- profitability data, including revenue and profit margins
- customer complaints and root cause analyses
- surveys, net promoter scores, social media rating analysis, focus groups, mystery shopping or other customer research
- data about customer usage and behaviour, such as transactional data, retention rates or relevant A/B testing of variation in product or service design
- operational data which might affect value such as on app or website outages or service call abandonment rates
- feedback from other firms in the distribution chain including, manufacturers, intermediaries, appointed representatives or other third parties regarding the value of the product
- the cost of providing the product or service, including credit risk
- market conditions, such as the interest rate environment or rates for comparable products

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Key Questions Is the firm satisfied that it is considering all the relevant factors and available data as part of its fair value assessments? Has it gathered relevant information from other firms in the distribution chain?

What insight has the firm gained for its value assessments by benchmarking the price and value of its products and services against similar ones in the market? Have the price and value of its older products kept up with market developments?

Can the firm demonstrate that its products and services are fair value for different groups of consumers, including those in vulnerable circumstances or with protected characteristics?

If the firm is charging different prices to separate groups of consumers for the same product or service, is the firm satisfied that the pricing is fair for each group?

What action has the firm taken as a result of its fair value assessments, and how is it ensuring this action is effective in improving consumer outcomes?

What data, MI and other intelligence is the firm using to monitor the fair value of its products and services on an ongoing basis? How regularly is it reviewing this material, and what action is it taking as a result?

Customer journey mapping

How do you act to enable and support customers to pursue their financial objectives?

What does your sales script contain?

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How do your sales people include recognising and taking account of client's behavioural biases?

Do you have a Controls library?

Do you have an non-advised or execution only service?

For the most part, where a firm provides a product or service on an execution-only or non-advised basis, customers' financial objectives can be assumed by the firm to be the enjoyment and use of the product and service they have purchased.

Is this explained in any documentation?

Is there any documentation?

Are there any brochures or online articles/videos explaining the services?

What happens if you decline to provide a product or do not have one adequately suitable for the client?

How/Is this recorded?

Does this appear in the Terms of Business?

Have you had your CJ independently checked?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Where a firm declines to provide a customer with a particular product or service, the firm should still consider whether there is information or support it could provide to help the customer pursue their financial objectives. For example, a firm could signpost a customer to a third party that provides reliable and relevant information to such clients. An example of information or support that may be appropriate to provide a customer that has been declined credit is the 'Money Helper' guide.

<https://www.moneyhelper.org.uk/en/everyday-money/credit-and-purchases/what-to-do-if-you-have-been-refused-a-loan-or-credit-card>

Timely provision of information How do you ensure that your firm provides relevant information at an appropriate stage in the customer journey, giving the customer the opportunity to review the communication before deciding whether to act

Target Market

Retail, SME, Professional, Wholesale?

Avatars/Segments - What are they?

How are their resources, degree of financial capability or sophistication determined?

What are the general expectations of the target market?

How do you define reasonably foreseeable characteristics of vulnerability your firm knows or should reasonably have known about in these segments?

Is this adequate?

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Application to wholesale firms The Consumer Duty is expected to apply to those wholesale firms that have a material influence over the * design or operation of retail products and services;

- the distribution of retail products and services;
- communications issued to retail consumers in relation to these products or services; and/or
- direct contact with retail customers on behalf of another firm.

Those firms closest to the customer in the distribution chain are most likely to be caught by the Consumer Duty, even if they operate in the wholesale sector. For example, an investment bank that designs a structured product for sale to retail customers would be subject to the Consumer Duty but investment banks providing wholesale instruments as component parts of a product created by a third-party firm may well not.

How do the benefits designed, meet this audience's needs?

How does pricing differ between target market segments?

Is there a premium/no frills/focused service offered?

How are their resources, degree of financial capability or sophistication determined?

What are the general expectations of the target market?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

What steps are taken to adapt the approach if the firm needs to vary the product or service where advice is being provided to the client?

Have you got documented risks and benefits to each product or service.

What changes could be made to mitigate the risks.

How are the customers made aware of these risks?

Do you provide/offer holistic planning advice?

If this is done through a strategic partnership, who, how, results?

Do you have non-advised or Execution only services?

Are the objectives/outcomes considered in the target market segment definition/assumptions?

Where a firm provides a product or service on an execution-only or non-advised basis, customers' financial objectives can be assumed by the firm to be the enjoyment and use of the product and service they have purchased.

For example, a firm providing a cash Individual Savings Account (ISA) without advice might assume their customers have an objective of keeping their savings safe and trying to maintain or improve their value over time.

When advisory services are provided -

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How do you demonstrate the client's specific objectives?

How would you act on that knowledge?

Where is it recorded?

KYC/Fact finding should clearly demonstrate discussion, stated objectives, time periods, affordability/source of funds.

KYC/Fact finding should also clearly demonstrate client's reservations, fears and worries about the possible outcomes at each alternative.

By contrast, a firm providing advisory or discretionary services would understand more about the customer's specific objectives and would need to act on that knowledge. For instance, an advice firm might know a customer has the financial objective to retire by a particular age or to make sure a dependent is provided for.

How many 'non target' market do you serve, M,Q & Y?

How does pricing differ between these?

Should it? Differentiate ourself in the market? Create new target market segment?

Low Capability Some consumers' low levels of financial capability, financial resilience or confidence in managing their money and finances, coupled with behavioural biases, means regulators cannot set a universal requirement of the degree of responsibility a consumer can be expected to take.

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Vulnerable Persons

For Guidance See FG21/1 Guidance for firms on the fair treatment

of vulnerable customers <https://www.fca.org.uk/publication/finalised-guidance/fg21-1.pdf>

Overview

Customers may move in or out of vulnerable circumstances at any stage. A firm's target market is likely always to include some customers with characteristics of vulnerability, customers who will experience vulnerability over time, as well as groups with other diverse needs. However, the extent of consumer vulnerability and the range of needs present will vary between target markets. Our 2020 Financial Lives Survey found that 46% of UK adults, equivalent to 24 million people, showed one or more characteristics of vulnerability.

How do client's resources, degree of financial capability or sophistication and known or reasonably foreseeable characteristics of vulnerability if a firm knows or should reasonably have known about the person?

How do you pay appropriate regard to the nature and scale of characteristics of vulnerability that exist in the relevant target market and the impact of these characteristics on the needs of customers in the target market?

What controls do you employ?

Who is involved?

Policies Training Round Table discussions 121 focused meetings Internal Newsletters

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How do you encourage clients to share information about their needs or circumstances, where relevant?

Have you developed a methodology for performing value assessments?

What is it? How was it tested? What were the results?

Vul Pers File Assessments pre-sale Vul Pers File Assessments post-sale Vul Pers Champion telephone call pre-sale?

Please provide the Policy & Log

Distribution chain

Position within that chain Platforms used CIP/CRP does it impose higher charges? Insurance MGA?

Firms do not need to have a direct relationship with the retail customer to be within scope – firms that can influence material aspects of the design, target market or performance of a retail financial services product or service must comply with the new rules.

Do you have any Outsourced functions?

Is there an impact this has on customer outcomes?

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FCA-authorised outsource provider

The FCA clarified that unless an FCA-authorised outsource provider can determine or has a material influence over retail customer outcomes, it would not be subject to the Consumer Duty. In such cases, the outsourcing firm will remain responsible for meeting the relevant aspects of the Duty.

Foreseeable Harm

A firm could cause foreseeable harm through its action or by failing to act either in its direct relationship with a customer or through its role in the distribution chain. This does not mean that the Duty makes firms responsible for the activities of other firms or requires them to oversee the actions of others in the distribution chain. But where a firm can reasonably foresee harm to a retail customer, it should act where it can and raise any issues with other relevant parties.

Cross Cutting Rules

The Duty includes three cross-cutting rules which set out how firms should act to deliver good outcomes for retail customers.

They 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

Poor conduct will often breach more than one of the cross-cutting rules

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

For example, acting in good faith is a key part of creating an environment in which customers can make decisions in their own interest and pursue their financial objectives. It is also a key part of acting to avoid causing foreseeable harm. If a firm continues to sell a product it knows to be causing harm, it is also likely to be acting in bad faith.

Similarly, a firm that does not act to avoid causing foreseeable harm is also not likely to be acting to enable and support customers to pursue their financial objectives.

For example, where a firm fails to explain the risks of a product to customers, it is unlikely to be acting to avoid causing foreseeable harm or enabling and supporting customers to pursue their financial objectives.

The Consumer Principle - Prin 12

To 'act to deliver good outcomes for retail customers'.

Questions

How do you pro-actively act to deliver good outcomes for customers generally and put customers' interests at the heart of your activities?

Can you show how you focus on the outcomes clients get, and act in a way that reflects how clients actually behave and transact in the real world, better enabling them to access and assess relevant information, and to act to pursue their financial objective?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

How do you ensure you have sufficient understanding of clients behaviour and how products and services function to be able to demonstrate that the outcomes that would reasonably be expected are being achieved by those clients?

Where you identify that good outcomes are not being achieved, what measures are in place act to address this by putting in place processes to tackle the factors that are leading to poor outcomes?

How as a firm, do you consistently and regularly challenge yourself to ensure your actions are compatible with delivering good outcomes for clients?

Consumer Principle - Concept Central to the FCA's proposal is the introduction of a new consumer principle requiring firms to act to deliver good outcomes for retail customers. The consumer principle is underpinned by cross-cutting rules providing greater clarity on the FCA's expectations under the new Principle and helping firms interpret the four outcomes. Under the new rules, consumers should:

- (i) receive communications they can understand;
- (ii) receive products and services that meet their needs and offer fair value; and
- (iii) get the customer support they need, when they need it.

Customer Service

Does your Customer Service department have a thorough knowledge of the products and services so as not to create barriers to the client's need to achieve their financial objectives?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Customers are more likely to make decisions in their interests and achieve their financial objectives when firms take steps to ensure that the products and services function as expected, are of fair value, firms' communications are clear and consumer support does not create unreasonable barriers

How do you ensure that your client support/services enable clients to fully use the products and services they buy and supports them in acting in their own interests? How do you record occurrences of sales 'sludge' in the design of clients journeys, which uses friction to prevent clients from taking actions such as further purchases, cancelling a product or amending terms

How do you ensure that the channels of support you provide work effectively and do not act as a barrier to clients utilising your products, cancelling or switching to another provider should they wish to

Firms should be designing and delivering consumer support in a way that does not create unreasonable barriers to consumers realising the benefits of products and services or acting in their interests. Also, ensuring that their consumer support enables consumers to fully use the products and services they buy and supports them in acting in their own interests: this includes avoiding 'sludge' in the design of consumer journeys, which uses friction to prevent consumers from taking actions such as cancelling a product or amending terms. And ensuring that the channels of support they provide work effectively and do not act as a barrier to customers utilising their products, cancelling or switching to another provider should they wish to.

Avoid foreseeable harm

FCA guidance sets out areas which firms should consider in order to act to avoid foreseeable harm under each of the outcomes. In relation to consumer support outcome, firms should:

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

Consider information available on customer behaviour and feedback to identify whether customers, or groups of customers, are encountering unreasonable barriers or unreasonable additional costs as part of firms' customer service provision.

Put things right when mistakes occur.

Be accessible when customers have questions.

How do you provide the porting of data if a client wants to transfer to another provider?

Ref DPA 2018 and UK GDPR.

Communications

Does your Customer Service department have a thorough knowledge of the products and services so as not to create barriers to the client's need to achieve their financial objectives?

How do you ensure that all client communications are aimed at and tailoring their communications accordingly so that they are likely to be understood?

Where/Who/What does the client do if they don't understand and/or have questions?

What extra help is there in helping customers navigate the information the firm provides, making it easy for consumers to identify the key information and their available options?

Do you have systems and processes in place to test and monitor the impact of communications on consumer understanding and using the outputs to improve your communications?

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Complaints RCA is a good source. At what stage are there enquiries?

How many?

Devise a program to complete pre-formed answers for analysis.

Provide freeform answers for 'Other' and review regularly.

Financial Promotions Log.

Marketing communications/campaigns.

Consumer understanding outcome rules retain the obligation under Principle 7 for firms to communicate information in a way which is clear, fair and not misleading. But they also build on, and go further than, Principle 7 by requiring firms to:

How do you ensure that the information provided is layered adequately and not unclear or misleading?

How do you get maximum engagement with clients and is that measured in some way?

How do you make sure documentation is provided on a timely basis?

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- support their customers' understanding by ensuring that their communications meet the information needs of customers, are likely to be understood by customers intended to receive the communication, and equip them to make decisions that are effective, timely and properly informed
- tailor communications taking into account the characteristics of the customers intended to receive the communication – including any characteristics of vulnerability, the complexity of products, the communication channel used, and the role of the firm
- when interacting directly with a customer on a one-to-one basis, where appropriate, tailor communications to meet the information needs of the customer, and ask them if they understand the information and have any further questions
- test, monitor and adapt communications to support understanding and good outcomes for customers

Distribution channels

How do you ensure that communications are effective through each channel of communication used – whether face-to-face in branch, on the telephone or online, for example?

How do you ensure that all digital communications are compatible with different mediums, for example computers, tablets or smartphones?

If you use smartphones for product/service applications or other instructions, how do you determine the amount of content available on the phone/app?

If you use smartphone product/service applications, do you use another channel for them to utilise before making a decision?

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

See Section 8 of the FG <https://www.fca.org.uk/publication/finalised-guidance/fg22-5.pdf>

Also Smarter Consumer Communications FS16/10

<https://www.fca.org.uk/publication/feedback/fs16-10.pdf>

Hearing or Visual Impairment

How do you manage people who have reading difficulties, require large type or braille?

How do you signpost clear ways for customers with a hearing or visual impairment to request communications in a format that meets their needs.

The firm ensures the communication takes this into account by including a prominent message in plain English inviting customers to get in contact with the firm if they need help to understand the communication or would like to discuss their options or the support available.

Testing of mediums for distribution How do you test communications can be understood by customers, so they can make effective decisions and act in their interests.

Do you use any “user group” testing of representative sampling of your target market?

Do you use random or targeted surveys?

Do you have follow up customer service calls to ensure clients understood the product they purchased, and have the opportunity to ask questions?

Do you have any follow up calls used to explore the views, experiences, beliefs and motivations of individual participants of segments in your target market?

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Testing of mediums for distribution One test firms can apply is that, where they conduct consumer testing of communications to determine an effective approach to maximise sales, they should use testing capabilities of an equivalent standard to test other aspects of consumer understanding to ensure good consumer outcomes.

When considering if testing is required, firms should take into account factors such as:

- the purpose of the communication and, in particular, if it includes key information designed to prompt or inform a decision, and the relative importance of that decision.
- the context of the communication, its timing, and its frequency (for example, it is likely to be more appropriate to test communications that could impact many customers)
- the information needs and vulnerabilities of the intended recipients, including whether the recipients are likely to include significant numbers of individuals with low financial capability who may be less likely to understand the communication,
- the scope for harm if the information being conveyed were misunderstood or overlooked by customers
- whether it is more important to communicate information urgently to support good outcomes, rather than carrying out testing before the communication is sent to customers

Firms should develop an approach to testing that provides assurance that customers can identify and understand the information needed to make effective decisions. This information is likely to include:

Complying with the FCA's Consumer Duty: Best Practices for Business Owners

- any actions required by customers and any consequences of inaction
- the key features, benefits, costs and risks of a product or service where customers need to evaluate or make a choice about the product or service
- how customers can access any additional information or support they might need.

firms should consider which questions or outcomes will elicit accurate measures of understanding in an objective way. For example, if the goal of a communication is to convey the cost of a product, an objective follow-up comprehension question would be 'what was the cost of the product?' If the goal was to explain certain product choice options, an objective question would be 'please explain the options available to you' or to ask them to choose the product that would be most suited to them and to explain why.

See section 8.57 Box of suggestions. <https://www.fca.org.uk/publication/finalised-guidance/fg22-5.pdf>

Notwithstanding existing regulatory communication obligations, suggests areas which enhance the effectiveness of a communications for firms to consider during production or review:

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Layered: key information (including any action required/ consequences of inaction) provided upfront with cross-references or links to further detail. Engaging: Using devices to make key information clear and engaging e.g. headings, layout, bullet points, tables, graphs, diagrams. Relevant: include the appropriate level of detail for each communication taking into account what consumers need to know, the kind of decision to be made and avoiding unnecessary disclaimers. Simple: Present information in a logical manner avoiding jargon or technical terms where possible. If there is no alternative, these terms should be explained in plain language. Well timed: Firms should communicate with consumers in a timely manner and at appropriate touch points throughout the product lifecycle.

Case Studies

Case study: Consumer Duty scope

Definition of retail customer multi-occupancy buildings insurance

A recent Dear CEO letter to Insurers and brokers on approaches to insurance costs for multi-occupancy buildings demonstrates the processes the FCA expect firms to take when considering the line between retail customer and commercial customers.

The FCA highlight firms' responsibilities to take account of the freeholders duties to their leaseholders when determining 'fair value', what is in the best interests of customers and what meets their needs.

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Although many freehold property owners will be commercial customers, consideration should be paid to the obligations they owe to their leaseholders who are likely to be retail consumers, as most leaseholders pay for buildings insurance through service charges and cannot shop around to find the best deals.

Case study: Price and Value

GI Pricing

The FCA's rules on General Insurance (GI) Pricing Practices introduced measures aimed at ensuring firms across the market offer fair value products - similar to those proposed in the Consumer Duty consultation. The measures are underpinned by detailed product governance requirements, which demonstrate the FCA's approach to how firms should consider value when launching or reviewing products. KPMG has been working with a wide range of GI and Protection providers to enhance and update their product and pricing governance frameworks throughout 2021. Key lessons included:

The need to form an overarching pricing and assessment of value framework to be applied as consistently as possible across all products and services, with a broad range of inputs from across product, brand & marketing, operations, digital and claims.

The need to underpin the approach with robust insight ensuring product value is regularly assessed from a customer perspective, supported by key performance metrics and minimum value thresholds.

Evidencing how the distribution arrangements support the intended value and maintaining strong oversight of distribution chains.

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Documenting key decisions relating to pricing and product value, ensuring these clearly demonstrate consideration of customer outcomes and have been approved by an appropriate level of governance.

Achieving a genuine and objectively robust balance between the firm's commercial interests and those of the end retail customer.

Case Study: Consumer support

Mortgages

In the investment platform transfer market, a common issue, that has already been identified by the FCA is the complexity, barriers (including exit charges) and length of time it can take for assets to be transferred from one provider to another. It is accepted that there is complexity in multiple different systems, exchanges and share classes. However, under the Consumer Duty, the current process may not be in line with the regulatory expectations, whereby customers may be stuck in the middle between two providers that will not talk to each other and with a multitude of forms to complete on both sides (with wet signatures). As a result of previous regulatory interactions on this issue, the FCA may see the Consumer Duty as the ultimate remedy boundary.



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Case Study: Consumer Understanding

Mortgages

It is commonplace for customers to come off a fixed rate mortgage after the expiry of the initial term and be moved to a mortgage provider's standard variable rate (SVR). Firms may now be expected to be more proactive in contacting such customers on a regular basis to remind them of the options available to them and provide guidance without crossing the advice boundary.

Case study: Products and Services

Asset management

FCA expects that firms will develop products and services that are specifically designed to meet the needs of consumers and are sold to those whose needs they meet. This may lead to asset managers needing to simplify their range of funds as well as rationalising the number of legacy share classes to congregate around the more keenly priced share classes where they cannot demonstrate the additional value (or associated costs) of a higher charging share class.

Summary

Which are the key implications for firms?

The Consumer Duty is expected to have wide-ranging implications for firms:

the renewed focus on customers' interests and outcomes will inevitably lead firms to consider the Consumer Duty at every stage of their processes and at every level of their organisational structure.

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Senior Managers will be responsible for ensuring the duty is met across the firm's business areas and they could be held accountable for failures to comply with the requirements and standards of the Consumer Duty.

Specific responsibility for overseeing adherence to the Consumer Duty should be documented in the Senior Managers' Statement of Responsibilities.

appropriate management information (MI) will be key to evidencing that the delivery of customer outcomes is being properly assessed and monitored. MI must be 'fit for purpose' and support senior management in evidencing that they are taking "reasonable steps" to meet the requirements of the Consumer Duty.

the expectation will be for firms to adopt a "get it right in the first place" approach, particularly when designing products and services. The FCA also expects firms to place greater emphasis on putting customers in a position where they can make decisions to meet their needs and pursue their financial objectives.

firms will be required to monitor, test and adapt their practices and processes on an ongoing basis to satisfy both themselves and the regulator that they are delivering the expected outcomes. The FCA will expect firms to provide information and data to it to evidence their compliance with said outcomes.

firms must deliver regular training to their staff on the Consumer Duty which will be overseen by their Senior Management.

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a firm's governing body should review and approve the firm's assessment of whether it is delivering good outcomes for its customers which are consistent with the Consumer Duty, at least annually.

The FCA expects the implementation of the Consumer Duty to be iterative, and it will engage with firms to determine good practice in terms of implementation and reviews of products and services.

About Compliance Consultant

At Compliance Consultant we know and appreciate the need for good governance, best practice adoption and delivering coherent strategies for our clients in the complex and fluid world of financial regulation. Working with financial services companies, helping to manage their compliance and other risks so they can control their exposure, train their staff, implement regulatory change and execute their strategy. This then allows them to concentrate on their core business, become stronger through better governance, greater efficiency and increasing profitability.

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