

A black and white photograph of two men in business suits shaking hands in front of a large window. The man on the right is smiling and holding a pair of glasses. The man on the left is wearing glasses and looking towards the other man. The background shows a bright, out-of-focus view through the window.

Quilter

Consumer Duty:
understanding the basics

An opportunity to prove your value

Issued on 27 July 2022, the FCA's Consumer Duty has one core aim - to ensure that firms act to deliver good outcomes for clients. The new regulation is as ambitious and far-reaching as it is broad and comprehensive.

It applies a magnifying glass to everything we do as, ultimately, every wheel and cog within a business has an effect on the experience of its customers. This is why the Consumer Duty is different from any regulation that most of us have seen before.

Firms of all shapes and sizes from across financial services have had a lot to digest. But it's not as complex as it may first appear.

To make sure you are ready, we're going to take you on the journey with us. We will help ensure that you're not just fully prepared for the new regulation, but are ready to take advantage of the opportunity to help your clients see the value of the great things that you do for them.

We will begin by getting you acquainted with the Consumer Duty and help you understand its principles and the outcomes that are expected.

"Of the 12 Principles, the final one is the most impactful. This states 'a firm must act to deliver good outcomes for customers'. This really couldn't be clearer - if you are serving customers, you must act to deliver good outcomes. No excuses, no passing of responsibilities. This is regulation that will sort the wheat from the chaff."

Jenny Davidson

Acting Commercial
and Propositions
Director



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Building on existing standards

First and foremost, Consumer Duty is not asking firms to tear up their business models and start again – quite the contrary. The majority of firms operating in the marketplace today are already fulfilling many of their Consumer Duty ... duties, with many of the new rules building upon existing standards, rather than breaking new ground. For example, financial advice and investments are already highly regulated and will therefore be ahead of the game.

The core principal behind the new regulation, states that **'a firm must act to deliver good outcomes for customers'**. This is no doubt already a cornerstone, or even a mission statement, for every advice business.

Therefore advice businesses may not necessarily need to adopt new processes or make fundamental changes to the way they do things. It's more likely that firms will simply need to test that their current ways of working meet the requirements, and build new mechanisms to prove the fantastic work they are already doing.

What is the Consumer Duty?

The 'Consumer Duty' is a new standard set by the FCA that incorporates and builds upon existing regulations, but also sets higher expectations for the standard of care that firms provide to retail financial consumers.

This standard aims to enable consumers to make good financial decisions and have greater trust in firms, by ensuring that they focus on:

- ▶ always putting good outcomes at the centre of their businesses
- ▶ the diverse needs of their customers at every stage.



FCA's Finalised Guidance
(FG21/1, February 2021)

The focus on 'vulnerability'

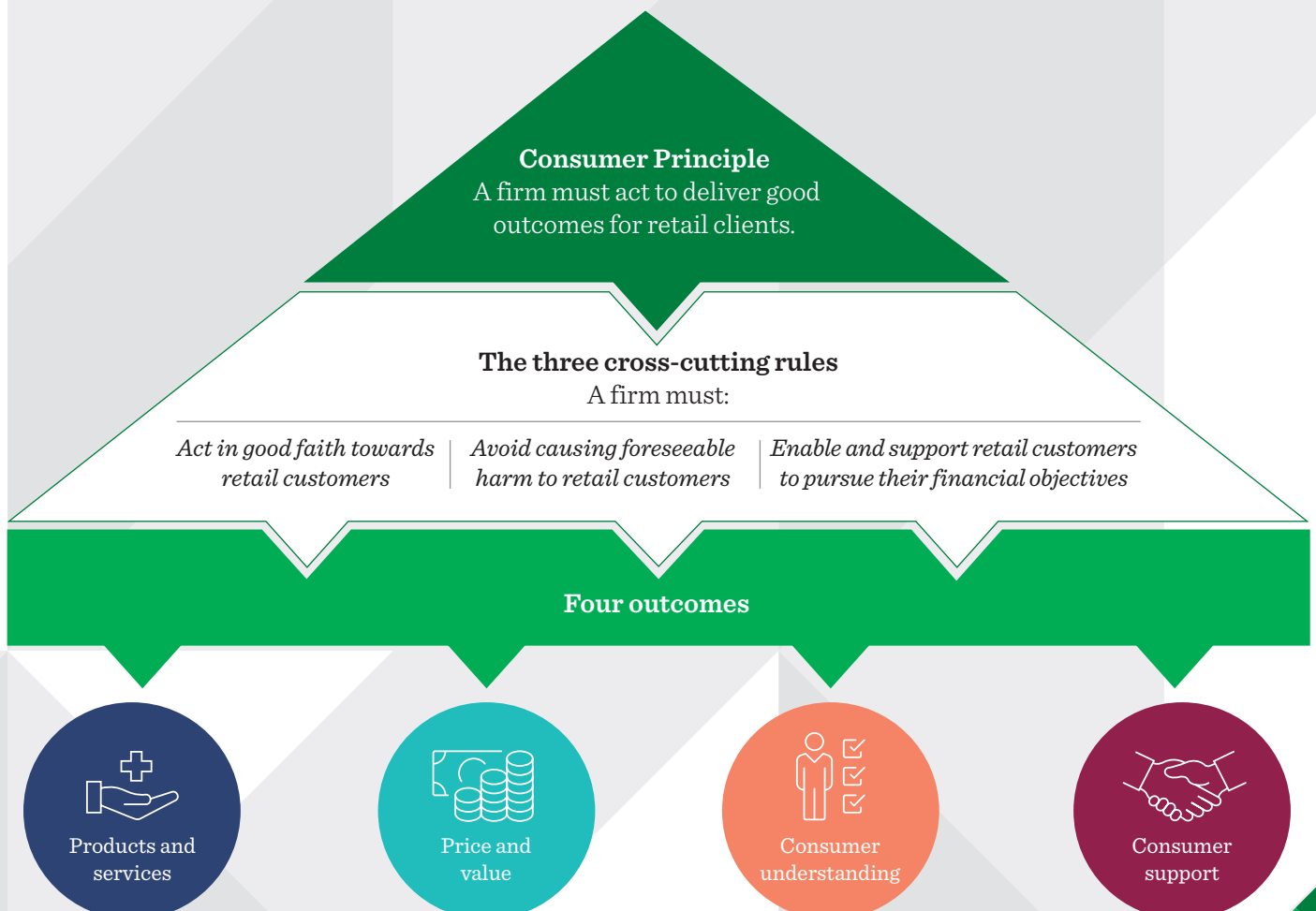
There is particular emphasis on 'vulnerability' within the Duty. Firms are expected to ensure that consumers in vulnerable circumstances experience outcomes as good as those for other consumers.

The Duty expects firms to pay attention to the needs of customers with 'characteristics of vulnerability' as they may have additional needs or be at greater risk of harm if things go wrong.

The Duty supports existing legal requirements, including both the **FCA's Finalised Guidance** (FG21/1, February 2021) on the fair treatment of vulnerable customers, and the Equality Act 2010. Since the introduction of these, firms have had to monitor whether groups of retail customers are experiencing different outcomes and take appropriate action where they do. The Duty is also aligned with, and supportive of, the Regulator's work on diversity and inclusion more broadly.

If your firm has already embedded the principles from these initiatives, it's likely you'll find yourselves in a great place when it comes to Consumer Duty.

Overview of the Consumer Duty





The new Consumer Principle : 'act to deliver good outcomes for retail customers'

Consumer Duty begins with an overarching 'Principle' that requires firms to *'act to deliver good outcomes for retail customers'*. This is being added to the FCA Handbook's Principles for Business as 'Principle 12'.

This principle sets a higher standard of conduct for firms to follow, as it means they need to **evidence** how they are not just delivering good Customer Outcomes now, but also how they are consistently and regularly challenging and improving so that they continue to deliver them on an ongoing basis.

The principle requires firms to:

- ▶ pro-actively act to deliver good outcomes
- ▶ put customers' interests at the heart of their activities
- ▶ focus on the outcomes of customers, enabling them to access and assess relevant information, to ensure they have sufficient understanding of customer behaviour.

The three cross-cutting rules

Below the new Principle 12, sit three 'cross-cutting' rules that apply to all areas. They set out **how** firms should act to deliver good outcomes and **how** the FCA expects firms to achieve the Consumer Principle:

Rule 1: *Act in good faith towards retail customers*

This rule aims to create an honest, fair and open environment in which customers can make informed decisions in line with their financial objectives. It expects firms to have the right culture and to act with integrity. It doesn't, however, mean that a firm is prevented from 'pursuing legitimate commercial interests or seeking a profit', provided it does so compliantly.

Rule 2: *Avoid causing foreseeable harm to retail customers*

Firms should act to avoid causing foreseeable harm through their actions or omissions, for example in the way that they design and price products and services. This does not mean that they need to predict the future, nor does it mean that firms are accountable for poorly performing investments (where investment risk has been understood and accepted by a customer).

An example might be where a firm continues to sell a product it knows to be detrimental or could cause harm and therefore likely to be acting in bad faith.

Rule 3: *Enable and support retail customers to pursue their financial objectives*

This rule is all about accessibility. It aims to ensure that customers can access products and services, without any barriers. It expects firms to make sure that their customers can contact them when they need to, and that they are provided with effective communications which can be easily understood. It also expects that products are designed and distributed so to empower customers to pursue their financial objectives.

The four outcomes

The FCA have specified four different 'outcomes' with rules and guidance for each:



1. Products and services

'We want all products and services for consumers to be fit for purpose. We want them to be designed to meet the needs, characteristics, and objectives of a target group of customers and distributed appropriately.'

This outcome means the Consumer Duty expects a firm to consider its target market at a sufficiently granular level.

Firms must ensure that:

- ▶ the product or service meets the needs, characteristics and objectives of customers in the identified target market, both now and ongoing
- ▶ the intended distribution strategy for the product or service is appropriate for the target market, and if it isn't, action is taken to remedy this.

There is good news here as many of you reading this may recognise some of these themes. This is because wealth firms should already be following the PROD rules, which ask for similar information to be captured when it comes to product governance. Therefore, most wealth firms should find that they already have the foundations in place when it comes to this outcome. All firms will, however, need to apply the rules to the 'services' they offer.



2. Price and value

'We want all consumers to receive fair value. Value is about more than just price, and we want firms to assess their products and services in the round to ensure there is a reasonable relationship between the price paid for a product or service and the overall benefit a consumer receives from it.'

The FCA states that retail customers experience harm where they don't get value for their money. Fair value must be central to the design of a product or service and the price the customer pays must be reasonable compared to the overall benefits.

The FCA's intention is not to set prices, and this outcome does not mean that firms are expected only to offer products and services at a low price. It does however expect firms to at least consider the following when assessing the value of a product or service:

- ▶ the nature of the product or service
- ▶ any limitations that are part of the product or service
- ▶ the expected total price customers will pay, including all fees and charges over the lifetime of the relationship between customers and firms
- ▶ address factors that could result in products or services not providing fair value, or the inclusion of features that could lead to foreseeable harm.

It's important to remember here that a customer's acceptance of the cost of a product or service does not necessarily mean that it represents fair value.





3. Consumer understanding

'We want firms' communications to support and enable consumers to make informed decisions about financial products and services. We want consumers to be given the information they need, at the right time, and presented in a way they can understand.'

This outcome builds upon Principle 7 from the Handbook, which obliges firms to communicate information in a clear, fair and not misleading way. This is critical in enabling an environment where a consumer can take responsibility for their decisions and pursue their financial objectives.

It applies to all communications between a firm and a customer, or potential customer, whether verbal, visual or in writing and requires firms to:

- ▶ ensure that their communications meet the information needs of customers
- ▶ tailor communications, considering the characteristics of the customers intended to receive the communication – including vulnerability,
- ▶ tailor communications to an individual and ask if they understand the information and have any further questions
- ▶ test, monitor and adapt communications to support understanding and good outcomes for customers
- ▶ be aware of customer behavioural biases, in all shapes and sizes.

It's important to take particular care when communicating with consumers in vulnerable circumstances, taking account of their needs.



4. Consumer Support

'We want firms to provide a level of support that meets consumers' needs throughout their relationship with the firm. This means firms' customer service should enable consumers to realise the benefits of the products and services they buy and ensure they are supported when they want to pursue their financial objectives.'

This outcome aims for customers to understand the products and services in question, as well as empowering them to make effective, timely and properly informed decisions. This impacts the way that firms communicate with their customers and the support service they offer, as well as how a customer accesses and uses their products and services.

For example, firms are required to:

- ▶ design and deliver support that meets the needs of customers, including those with characteristics of vulnerability
- ▶ ensure that customers can use their products as reasonably anticipated
- ▶ ensure they include appropriate friction in customer journeys to mitigate the risk of harm and give customers sufficient opportunity to understand and assess their options, including any risks
- ▶ ensure that customers do not face unreasonable barriers
- ▶ monitor the quality of the support they are offering
- ▶ ensure they do not disadvantage groups of customers, including those with characteristics of vulnerability.

The Duty also introduces the concept of 'positive friction'. This is where a firm should consider slowing down a process where it doesn't create unreasonable barriers. For example, taking more time for additional fraud checks or allowing a customer to pause before taking an investment decision.

Culture, governance and accountability

The Consumer Duty requires firms to ensure that the interests of their customers are central to their culture and purpose and embedded throughout the organisation.

This includes a requirement for firms to ensure that their strategies, governance, leadership, and people policies (including incentives at all levels) all lead to good outcomes for customers.

The FCA expect customer outcomes to be a key lens for important areas, such as Risk and Internal Audit.

Consumer Duty Champions

The Consumer Duty highlights an expectation that firms appoint a Duty Champion. This person will be responsible for ensuring that the Duty is being discussed regularly and raised in all relevant discussions. It also recommends that, where possible, this person is an Independent Non-Executive Director.

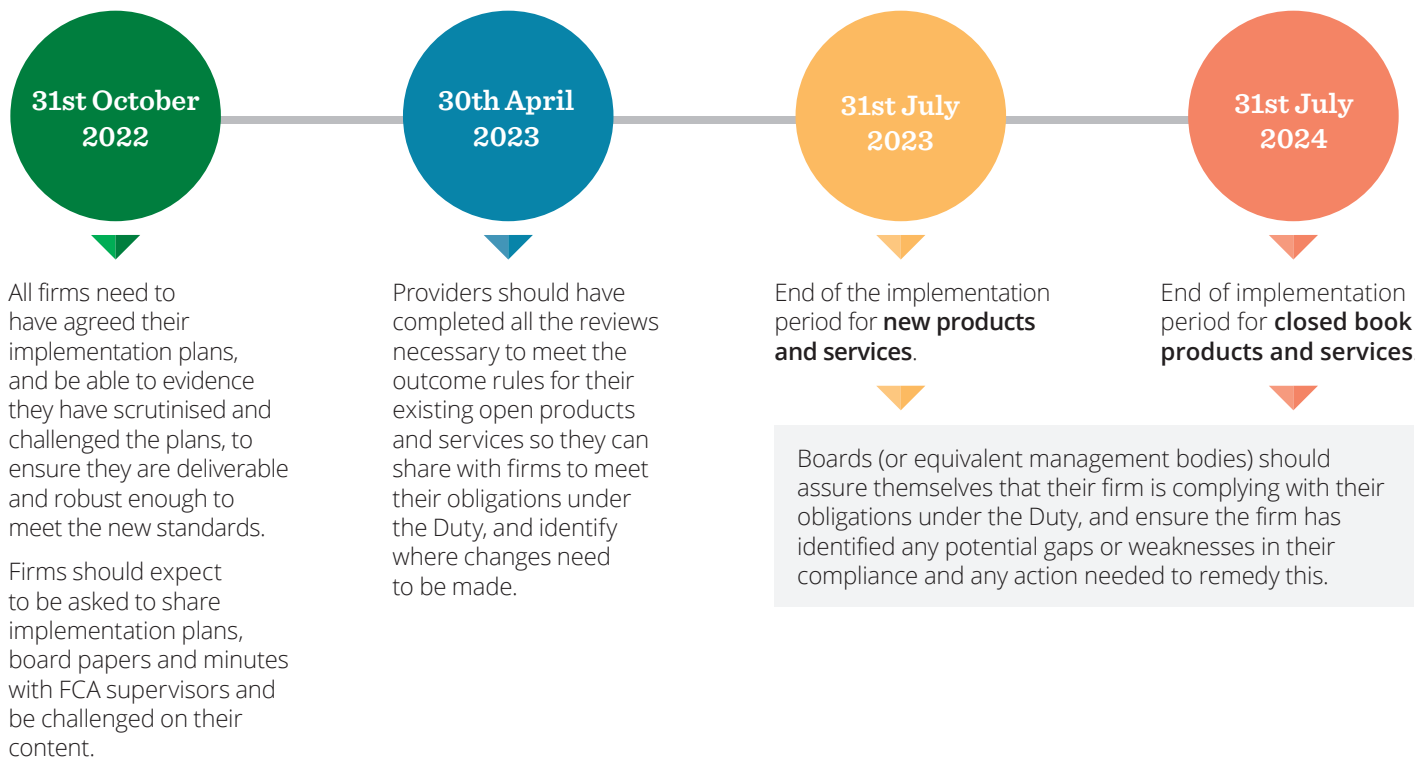
The Consumer Duty champion, together with the firm's board, are expected to review and approve an assessment of whether the firm is delivering good outcomes for its customers which are consistent with the Duty. This will need to be conducted annually and included within the firm's board report.

Having a Consumer Duty Champion is a requirement for each regulated entity.

If you are part of a network, you may find that this isn't a requirement – but please check this with them to make sure.

Timings: what needs to be done by when?

There are a number of milestones that firms need to meet:



If you are part of a network, it should be responsible for producing a Consumer Duty Implementation Plan.

Firms must alert the FCA if they believe that they will not be able to complete all the work necessary to be compliant with the Duty before the deadlines.

Firms should also take a risk-based approach and prioritise the implementation work that is likely to have the biggest impact on consumer outcomes. For instance, they should review first the most complex or risky products and the most significant communications.





Key points to remember:

- ▶ The Consumer Duty requirements are building on existing standards
- ▶ Many firms will already be fulfilling many of their Consumer Duty requirements
- ▶ The onus will be on evidencing how your firm is delivering good Customer Outcomes, and how it is challenging and improving itself to make sure that it does so on an ongoing basis.
- ▶ The overarching principle is that firms *'must act to deliver good outcomes for the retail consumers of its products and services'*
- ▶ The three cross-cutting rules are
 - Act in good faith towards retail customers
 - Avoid causing foreseeable harm to retail customers
 - Enable and support retail customers to pursue their financial objectives
- ▶ The four outcomes cover:



Products and services



Consumer understanding



Price and value



Consumer support

We hope you have found this a useful overview, and have been reassured that the new Consumer Duty requirements are not as overwhelming as they first may have appeared.

We are committed to helping advisers on the journey as we all adapt to the new Consumer Duty regulations. Look out for further support in the coming months. If there are any areas where you would like further support, please speak to your usual Quilter contact.

Important information

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