



IMPLEMENTING THE CONSUMER DUTY FOR ASSET MANAGEMENT FIRMS



Background

The [Consumer Duty \(Duty\)](#) is forward-looking and does not have a retrospective effect on firms. (In July 2022, the FCA published the final Consumer Duty [rules](#) and [guidance](#) for firms.)

The Duty sets the standard of care that firms should provide to customers in retail financial markets. The FCA has introduced a new principle, Principle 12, known as the Consumer Principle. This principle requires firms to act in a way that delivers good outcomes for retail customers. It sets a higher standard compared to both Principle 6 (A firm must pay due regard to the interests of its customers and treat them fairly) and Principle 7 (A firm must pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading). The Consumer Principle reflects the overall standard of behaviour, which is further defined by the other elements of the Duty.

How the Duty applies to firms in Asset Management

The Duty applies to the regulated activities and ancillary activities of all firms authorised under the Financial Services and Markets Act 2000, the Payment Services Regulations 2017 and E-money



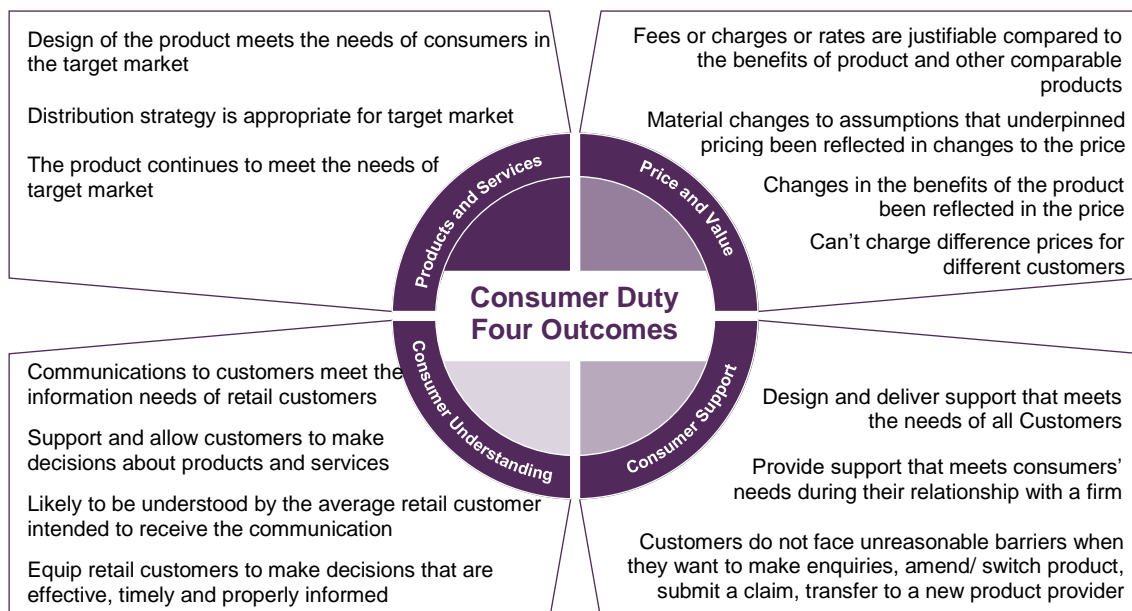
Regulations 2011. It is applicable to products and services provided to both prospective and actual retail customers.

The Duty applies in relation to an Asset Management firm's retail market business (in broad terms, where a firm is in a distribution chain involving retail customers). This could be where products or services are offered to retail customers or where firms determine or have a material influence over customer outcomes – the Duty does not just apply to those with a direct customer relationship. The Duty imposes obligations on distributors as well as manufacturers. In cases where firms act as distributors they will need to consider if distribution arrangements, including remuneration, could result in a product ceasing to provide fair value.

What is the Consumer Duty?

Consumer Duty is a principle that requires in-scope firms to act in the best interests of consumers at all times. It is designed to ensure that consumers are treated fairly and provided with appropriate protection. There are three main elements:

- A **Consumer Principle** (Principle 12 – A firm must act to deliver good outcomes for retail customers) which reflects the overall standard of behaviour for firms and will apply instead of Principles 6 and 7;
- Three **cross-cutting rules**:
 - act in good faith towards retail customers;
 - avoid causing foreseeable harm to retail customers;
 - enable and support retail customers to pursue their financial objectives; and
- The **'four outcomes'** which are a suite of rules and guidance setting more detailed expectations for firm conduct in four areas that represent key elements of the firm-consumer relationship.





Examples of actions by the firm which are likely to be consistent or inconsistent with the Duty

Outcomes	Poor practice	Good practice
Products and Services	Products or services are marketed or distributed without considering whether they are designed to meet the needs, characteristics and objectives of customers in the target market.	A firm identifies a potential issue during its regular review of a product or service or distribution arrangement and takes appropriate steps.
Price and Value	A firm has pricing practices which give no consideration to whether the product or service offers reasonable benefits to customers in relation to the total price paid by them	A firm carries out a value assessment and documents how the prices of products or services provide fair value to customers in the target market
Consumer Understanding	Firms design communication strategies based solely on what is most commercially efficient, rather than considering the information needs of their customers.	Firms 'put themselves in their customers' shoes' and consider whether their communications equip customers with the right information, at the right time.
Consumer Support	A firm uses an automated telephone system which only provides options to progress with queries regarding a few commonly raised issues. It does not provide a route for customers to seek support regarding other issues.	Firms have effective customer support processes and communication strategies to deal with unexpected surges in demand for support.

Source: FG22/5 Final non-Handbook Guidance for firms on the Consumer Duty

Timelines

- 31 July 2023 - The Duty comes into force for new and existing products or services
- 31 July 2024 - The Duty comes into force for closed products or services.
- 2024- FCA to conduct a review of Assessment Management Firms

Review by FCA

Subsequent to publication of the final rule, FCA reviewed the implementation plans of larger 'fixed' firms to better understand firms' approach to embedding the Duty within their businesses. In January 2023, FCA published the findings from review to help all firms understand our expectations and implement the Duty more effectively.

Please refer to [Avantage Reply whitepaper CONSUMER DUTY: THE COUNTDOWN BEGINS](#) for more details.



What Firms need to comply with

- 1 Conducting a consumer outcomes test:** Firms must assess the impact of their products and services on consumers and take steps to improve outcomes where necessary.
- 2. Identifying and managing potential harm:** Firms must identify potential risks to consumers and take steps to mitigate or eliminate those risks
- 3. Fair treatment of customers:** Firms must treat customers fairly and not discriminate against them on the basis of factors such as age, gender, or race
- 4. Addressing consumer complaints:** Firms must have effective processes in place for addressing consumer complaints and resolving disputes
- 5. Maintaining adequate records:** Firms must maintain accurate and complete records of their consumer interactions and activities
- 6. Regularly reviewing and updating policies and procedures:** Firms must regularly review and update their policies and procedures to ensure that they are in compliance with consumer duty guidelines
- 7. Providing regular training to employees:** Firms must provide regular training to employees on consumer duty guidelines, fair treatment of customers and complaint handling



Key considerations for Asset Management Firms

- i. Authorised fund managers that are subject to the Assessment of Value and related rules in COLL (Collective Investment Schemes) are not subject to the price and value rules stated in Consumer Duty: retail customer outcome on price and value (PRIN 2A.4). The Duty's Price and Value outcome will apply fair value requirements more broadly, to other funds and services.
- ii. The rules in PROD 3 (Product Intervention and Product Governance Sourcebook) are similar to those in the Products and Services outcome (PRIN 2A.3). However, the Duty as a whole encompasses broader requirements than PROD. Therefore, compliance with PROD rules does not necessarily mean that firms fulfil all aspects of the Duty.
- iii. Firms will need to consider if they have 'material influence' to determine if they are subject to the Duty.
Examples where a material influence would not exist where the role of the firm is limited to
 - a) Operating within a mandate determined by another firm in the chain, such as a portfolio manager whose role is limited to managing assets under a mandate determined by a professional client, where that client is entirely independent of the manager; and
 - b) Providing factual information to support the work of another firm in chain.
- iv. A firm that has a key role, such as determining a product's charges or terms and conditions, would have more significant obligations.
- v. Firms must ensure that they meet the Customer Support outcome if they have direct or indirect customer engagement, e.g., servicing legacy customers or dealing with complaints.
- vi. Firms should be aware of obligations in relation to the Consumer Understanding outcome, if funds are distributed to customers directly or through third parties, and provide documents that will reach customers, such as any financial promotions, fund literature or sales aids.
- vii. The Duty now requires distributors to provide relevant information to manufacturers to support product reviews.
- vii. Firms should ensure that they have appropriate controls in place to effectively oversee their Appointed Representatives activities and ensure comply with the Duty.

Next Steps

FCA will conduct a review in 2024, to assess the embeddedness of the Duty. This will cover a variety of business models, including Authorised Fund Managers and investment managers, with a focus on the Price and Value outcome and, where relevant, the assessment of value rules



Resources

- [Financial Conduct Authority letter: Implementing the Consumer Duty in Asset Management, Custody & Fund Services, 3 February 2023](#), accessed 01 June 2023
- Financial Conduct Authority, FG22/5 Final non-Handbook Guidance for firms on the Consumer Duty, July 2022, available at <https://www.fca.org.uk/publication/finalised-guidance/fg22-5.pdf>, accessed 01 June 2023.
- Financial Conduct Authority, PS22/9 A new Consumer Duty, July 2022, available at <https://www.fca.org.uk/publication/policy/ps22-9.pdf>, accessed 01 June 2023.
- Financial Conduct Authority, Consumer Duty implementation plans, 25 January 2023, available at <https://www.fca.org.uk/publications/multi-firm-reviews/consumer-duty-implementation-plans>, accessed 01 June 2023.
- Financial Conduct Authority, CP21/13 A new Consumer Duty, May 2021, available at <https://www.fca.org.uk/publication/consultation/cp21-13.pdf>, accessed 01 June 2023.



Marty Clark, Partner

Marty is a Partner with 30 years financial services experience. He has operated as an executive within banking, a board member of consultancy / FinTech firms. In 2004 he co-founded Avantage (Reply). After Reply acquired Avantage, Marty joined NatWest where he held several roles within the Risk function (head of the CRO office, head of risk transformation and interim Global COO for Risk).

With his recent return to Reply, he is running the Reply Asset Management practice. He is an expert in business development, board-level communication and management, operations, programme design and delivery, coupled with a thorough understanding of banking, risk, front office & finance processes.

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Vishwas Khanna, Partner

Vishwas has international financial services consulting and risk management experience across Europe, US, Middle East and SE Asia, leading a multitude of risk transformations and change programmes.

Vishwas is a trusted advisor to the C-Suite across a number of financial institutions with strong working relationships with industry associations and academia and is a speaker at industry events and forums.

Vishwas has led large scale operating model designs, credit and credit risk programmes, bank authorisations, capital and liquidity programmes and regulatory remediations at PRA, FCA, ECB and FINMA regulated banks and asset managers.

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Lokesh Kamble, Manager

Lokesh has 13 years' experience of working with financial institutions across Strategic Transformations, Regulatory Interpretation & Reporting, Risk Management, and Treasury Product Management. Lokesh has extensive experience in risk management, governance, control frameworks and business analysis, including documentation of BRD, structured gap analysis and programme management and support.

He has a deep understanding of regulatory and prudential risk requirements. Recently, he completed projects in which Avantage Reply supported clients on various areas, including Basel 3.1 impact assessment, ICAAP review, and CRR rule interpretation. Lokesh conducted workshops with senior stakeholders from multiple clients and organized a breakfast briefing event on consumer duty, which was attended by industry experts and clients.

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Giovanni Andrea Brunori, Manager

Giovanni is the asset management technology practice lead at Reply. He is an eFront subject matter expert and has supported various clients with their implementation of eFront solutions.

Prior to joining Reply, he served as the Head of Equity applications at FMO Development Bank where he held full responsibility for the maintenance and management of the bank's core applications, including eFront Invest and eFront PM.

From 2015 to 2019, he worked as a lead consultant at eFront BRS where he provided professional services to Blackrock clients in UK and EMEA.

Giovanni has obtained the CAIA certification in 2018.

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Kasimaporn Chumjai, Consultant

Kasimaporn is a highly self-motivated and results-driven consultant with over 4 years of experience. She has a proven record of delivering exceptional results in multiple areas, including a good understanding of Consumer Duty. In particular, she organised a successful breakfast briefing event on "Consumer Duty: The Countdown Begins" that was attended by a number of industry experts and clients.

She has prior experience working on programs to assess regulatory interpretation and implementation gaps, as well as projects involving managing programmes and stakeholders. Kasimaporn possesses well-developed analytical thinking and creative problem-solving skills to address any challenges or issues that arise on any occasion.

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