

Newsflash

FCA Review of Consumer Duty implementation plans – 26 January 2023

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The FCA published its findings from the review of Consumer Duty implementation plans for larger firms on 25 January. While many plans demonstrated engagement with the substance of the Duty, the FCA noted some firms are further behind in their thinking and run the risk of not being ready in time.

Consumer Duty

The new Consumer Duty requirements were finalised in July 2022, setting out the standard of care expected for customers in financial markets. To recap, the overarching principle that firms 'aim to deliver good outcomes for retail customers' is supported by three cross-cutting rules and four areas where the FCA want to see better outcomes:

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

As well as confirming phased implementation dates, with the rules coming into force for new and existing products or services on 31 July 2023, and for closed products or services on 31 July 2024, the FCA set a clear expectation that firms should have agreed implementation plans by the end of October 2022. Following this deadline the FCA requested implementation plans from larger firms with a dedicated supervisory team, and has now published the findings from their review of these plans and associated discussions with firms.

Key findings

The FCA has highlighted three key areas where firms should focus their attention ahead of the 31 July 2023 implementation date.

Effective prioritisation – by which the FCA means that firms should focus on those areas that will make the biggest impact on customer outcomes. Consumer Duty aims to set higher and clearer standards of consumer protection across financial services, with a clear requirement to put customers' needs first. In line with this goal, the FCA has urged firms to use the remaining 6 months in the lead up to implementation to focus on areas with the greatest risk of poor customer outcomes and assessing where they are likely to be furthest from meeting the requirements of the Duty.

There is a clear link between completing a robust assessment of products and services and being able to prioritise activity based on the risk to consumers. One of the areas for improvement highlighted by the FCA is the high-level nature of some implementation plans at the time of their review. Ensuring that any assessments or gap analyses include clear actions as well as owners and timescales for implementation will provide a much clearer rationale for planned activity.

Embedding the substantive requirements – here the FCA is reiterating the four key outcomes as outlined above and the fact that firms should be looking at the detail of the substantive requirements that they need to tackle under each of these four areas. While the FCA recognises that implementation plans are likely to be high level, there is a concern that some firms are engaging only superficially with the requirements of the Duty. The FCA calls out examples of limited evidence of Boards providing real challenge to implementation plans and plans appearing to rely on past improvements or current initiatives, without clearly articulating their adequacy for meeting the Duty. While many existing initiatives may provide relevant information, ensuring a clear articulation of the outcomes the firm will monitor to ensure compliance with the Duty and consideration of potential gaps in existing data sources will help to demonstrate substantive engagement.

Working with other firms – for this aspect, the FCA wants to ensure that firms have considered the other parties that are involved in the interactions with consumers and that they should be planning and prioritising the data flow required between manufacturers and distributors to meet the requirements of the Duty. At a minimum, this should include identifying key third party relationships and the nature of the dependency, as well as engaging to agree the exchange of necessary information.

Examples on the key findings

The FCA has set out their key findings under 6 main headings, with examples of both good practices and areas for improvement. The following is a high level overview:

Governance and oversight – the FCA is keen to see genuine oversight and interaction with Boards on the topic of consumer outcomes. They expect to see a Board champion in place and good involvement by the risk and compliance teams. They are less impressed where there is little Board engagement or challenge.

Culture and people – here there should be broad training for all and interactive training in particular could be deemed more effective. On culture, the FCA were pleased to see that some firms are reviewing their reward and incentive plans, which is good tangible action.

Deliverability – as with all effective project plans, the FCA wants to see clear milestones and a breakdown of the work involved, including identification of resources required and interaction with other projects. They were disappointed where plans did not mention internal or external dependencies and mitigants to risks in the project plan.

Third Parties – as already mentioned in the key areas of focus above, the FCA want firms to show an understanding of how they will work with other parties to deliver good outcomes and they expect to see progress being made on how clear engagement with other parties is being taken forward.

Four outcomes – there are specific points that the FCA commended against each of the four outcomes as evidence of firms engaging with the substantive requirements of the Duty. For example, a review of product governance frameworks under the Products and Services outcome and looking for hidden or unexpected charges under Price and Value.

Data strategies – the FCA recognised that most firms are considering the additional MI requirements that will be needed for the future and those firms that have long term data strategies and plans for MI development were the ones that impressed.

Next steps

Work will continue at pace over the next six months, both for the regulator and financial services firms. The FCA will continue to engage with larger firms and have said that they will be sending a survey to a sample of firms to understand progress, as well as a letter to all firms setting out their expectations.

Financial services firms themselves will need to ensure that they are addressing the areas highlighted by the FCA, and that they are keeping their Boards informed and actively engaged with regular updates and opportunities for challenge.

The FCA's Final Guidance paper FG22/5 had more details on the full requirements of the new Consumer Duty. Our Insurance & Financial Services team includes experts who would be delighted to explore these points and how they might relate to your own business. Please get in touch with your usual Hymans Robertson contact or one of the authors if you would like to set up a discussion on the implications of Consumer Duty for your business.

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