

## Consumer Duty Policy Statement

The Financial Conduct Authority (FCA) published the new **Consumer Duty Policy Statement** (PS) on 27 July 2022. The PS sets out higher standards of consumer protection in the retail sector.

The aim of the PS is to regulate the standard of care that firms should provide to customers in retail financial markets. The Duty comprises of an overarching principle and new rules which will also interact with existing rules.

Under the new Consumer Duty, consumers should receive communications they can understand, products and services that meet their needs and offer fair value, and receive the customer support when they need it.

The FCA proposes that where a firm does not have a relationship with the end-consumer, but is still able to influence the outcome, target market or performance of a product or service, the firm will still be bound by the Consumer Duty.

The Duty will apply to all firms in the distribution chain (manufacturers and distributors) for products and services sold to customers (retail clients). The FCA confirms that, unless there are regulatory requirements or contracts require it, firms are responsible and have liability only for their own activities and do not need to oversee the actions of other firms in the distribution chain.

The FCA has proposed a phased implementation approach. Firms will need to apply the Consumer Duty to:

- for new and existing products or services that are open to sale or renewal, they will come into force on 31 July 2023,
- for closed products or services, they will come into force on 31 July 2024.

## Consumer Duty New Rules

The Consumer Duty is comprised of the following components:

## Consumer Principle

The new Consumer principle 12 *“A firm must act to deliver good outcomes for retail customers”* will sit within the High-Level Standards Principles (PRIN) sourcebook, this is to provide a high-level expectation of conduct and associated outcomes. The Consumer Principle will apply to firms that fall within the Consumer Duty scope and the FCA requires firms to continue applying Principle 6 and 7 to firms dealing with wholesale or retail customers outside the scope of the consumer duty.

## Cross cutting Rules

Cross cutting rules sets out how firms should act to deliver good outcome. The cross-cutting rules require firms to:

- Act in good faith towards retail customers
- Avoid foreseeable harm to retail customers, and
- Enable and support retail customer to pursue their financial objective

## Four Outcomes

The PS covers the four outcomes under the new Duty which are rules and guidance setting detailed expectations for firms’ conduct in four areas that represent key elements of the firms-consumer relationship:

- The governance of products and services
- Price and value
- Consumer understanding, and
- Consumer support

Senior Managers will have a key role in relation to accountability for delivery of the activities that fall within their scope of responsibilities as the FCA introduces a new individual Conduct Rule 6 in the COCON for the Senior Managers & Certification Regime (SMCR).

The new rule requires all Conduct Staff (as defined under SMCR) *“to act to deliver good outcomes for retail customer”*. However, this is only applicable to firms falling within the scope of the Consumer Duty.

## Key Deadlines for Firms

By 31<sup>st</sup> October 2022, firms’ Boards (or equivalent management body) will need to have agreed their

implementation plans for the new Consumer Duty. Firms should evidence that they have scrutinised and challenged those plans to ensure they are deliverable and robust enough to meet the new consumer duty standards. Boards are expected to share the Implementation plan alongside the minutes, and board papers to the FCA if requested.

Firms will need to undertake a Gap Analysis in relation to the new rules assessing and identifying any shortfalls in their current resell products and services against the new cross cutting rules and the four outcomes.

The impetus is to evidence a robust governance process through the check and challenge and to demonstrate a shift in the regulatory supervisory approach to a more data driven evidence-based approach. Therefore, firms will need to maintain easily accessible data and management information that readily evidences compliance with the FCA's expectations.

Manufacturers should share key information with distributors three months ahead of the implementation deadline to enable all firms to comply in time.

Firms are to engage with the FCA if they are considering withdrawing any products or services due to the Duty, so that it can be identified whether there are any potentially significant impacts on consumers. Firms must alert the FCA if they believe that they will not be able to complete all work necessary to be compliant with the Duty before the implementation deadlines.

## Action Required



## How can Newgate Assist?

Newgate's experienced team of consultants have developed a Consumer Duty Tool Kit encompassing a suite of documents, training materials and guidance to support the practical implementation of the Consumer Duty for your firm in a cost-effective and efficient way.

Our Consumer Duty Tool Kit includes a template Board (or equivalent management body) Implementation Plan, template Board Pack, Board Resolution and Minutes, compliance policies and procedures, ongoing compliance monitoring programme of the Duty, and Senior Manager and Staff training (both in person and online via our proprietary **Gateway training system**).

**Contact us** today to find out how we can support you on the new Consumer Duty.

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## About Newgate Compliance

Newgate Compliance is a compliance consultancy offering a modern solution to implement your compliance function using an innovative compliance software solution called **The GATEway**.

Newgate has an unrivalled combination of experienced professionals, many of whom are ex-regulators.

Our customer focused approach seeks to provide appropriate, pragmatic and flexible solutions to our clients helping them to meet both the regulator's rules but also the spirit, principles and culture of the regulatory regime.

We look to build long-term relationships with our customers helping to encourage business growth, productivity and innovation. Our proactive approach is tailored to each customer's needs changing to meet those needs as the customer progresses and develops.

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