



**Informing Progress - Shaping the Future**

## FOIL Update 3<sup>rd</sup> July 2024



### **The FCA Consumer Duty: A New Era in Financial Regulation**

The Financial Conduct Authority's (FCA) Consumer Duty marks a paradigm shift in the UK's financial services regulatory landscape. Introduced in July 2022, this new regulatory framework aims to significantly elevate the standards of consumer protection and compel firms to prioritise good outcomes for retail customers. For insurers, this represents both a substantial challenge and a unique opportunity to reshape their approach to customer service and product design.

#### **Key Deadlines and Scope**

The Consumer Duty came into effect on 31 July 2023 for new and existing products or services that remained open to sale or renewal. However, for closed products or services - those no longer marketed or sold to new customers but still held by existing customers - the compliance deadline is set for 31 July 2024. This looming deadline is particularly crucial for insurers with legacy portfolios or books of business acquired through mergers and acquisitions.

#### **The Three Pillars of Consumer Duty**

##### **1. The Consumer Principle**

At the heart of the Consumer Duty lies the Consumer Principle, which states that "A firm must act to deliver good outcomes for retail customers." This overarching principle sets the tone for all aspects of a firm's interactions with retail customers.

##### **2. The Cross-Cutting Rules**

The Consumer Duty is underpinned by three cross-cutting rules that apply across all areas of firm conduct:

1. Act in good faith towards retail customers

2. Avoid causing foreseeable harm to retail customers
3. Enable and support retail customers to pursue their financial objectives

These rules require insurers to take a proactive approach in identifying and mitigating potential harms, as well as empowering customers to make informed decisions about their financial products.

### **3. The Four Outcomes**

The FCA has defined four key outcomes that firms must strive to deliver:

1. **Products and services:** Products and services must be designed to meet the needs, characteristics, and objectives of a specific target market.
2. **Price and value:** Products and services must offer fair value to consumers.
3. **Consumer understanding:** Firms must communicate in a way that supports consumer understanding and equips consumers to make effective, timely, and properly informed decisions.
4. **Consumer support:** Firms must provide support that meets consumers' needs throughout their relationship with the firm.

### **Implications for Insurers**

#### **Closed Products and Services**

For closed books of business, insurers face unique challenges in meeting the 31 July 2024 deadline. Key considerations include:

1. **Product Review:** Conduct a comprehensive review of all closed products against the Consumer Duty requirements. This includes assessing whether products still meet the needs of the target market and offer fair value.
2. **Value Assessment:** Evaluate the price and value proposition of closed products considering current market conditions and customer needs. This may involve comparing against similar products currently available in the market.
3. **Communication Audit:** Review all customer communications related to closed products, ensuring they are clear, fair, and not misleading. This includes policy documents, annual statements, and any ongoing correspondence.
4. **Support Mechanisms:** Assess the adequacy of customer support provided for closed products. This may involve reviewing call centre scripts, online support tools, and claims processes.
5. **Vulnerable Customers:** Pay particular attention to the needs of vulnerable customers within the closed book, ensuring appropriate safeguards and support mechanisms are in place.
6. **Data Analysis:** Utilise data analytics to identify potential areas of harm or poor outcomes within the closed book. This could include analysing claims ratios, complaint data, and customer feedback.

## **Implementation Strategies**

To meet the July 2024 deadline, insurers should consider the following actions:

1. **Gap Analysis:** Conduct a thorough gap analysis between current practices and Consumer Duty requirements for closed products.
2. **Action Plan:** Develop a detailed, time-bound action plan to address identified gaps, prioritising areas with the greatest potential for customer harm.
3. **Governance:** Establish clear governance structures for Consumer Duty implementation, including board-level oversight and regular reporting mechanisms.
4. **Training:** Provide comprehensive training to staff at all levels on the Consumer Duty requirements and their practical implications.
5. **Systems and Processes:** Review and update systems and processes to support ongoing compliance with the Consumer Duty, including enhanced monitoring and reporting capabilities.
6. **Documentation:** Maintain robust documentation of all Consumer Duty-related activities, decisions, and rationales to demonstrate compliance to the FCA if required.

## **FCA Findings and Enforcement Actions**

While the FCA has not yet taken specific enforcement actions under the Consumer Duty, it has provided insights into its expectations and areas of focus:

1. **Implementation Progress:** In January 2024, the FCA published its findings on firms' progress in implementing the Consumer Duty. The regulator noted that while many firms had made good progress, there were areas where improvement was needed, particularly in relation to:
  - Embedding the Duty throughout the organisation
  - Developing robust outcome testing frameworks
  - Addressing issues in closed book products
2. **Supervisory Approach:** The FCA has signalled a more assertive supervisory approach, with a focus on firms' implementation efforts and the outcomes being achieved for customers. This includes:
  - Targeted firm assessments
  - Thematic reviews across sectors
  - Data-led supervision to identify potential areas of harm
3. **Areas of Concern:** The FCA has highlighted several areas where it expects to see significant improvements, including:
  - Product governance and value assessments

- Treatment of vulnerable customers
- Quality of customer communications
- Effectiveness of customer support services

4. Enforcement Expectations: While no formal enforcement actions have been taken to date, the FCA has made it clear that it will not hesitate to use its full range of powers where serious breaches of the Consumer Duty are identified. This could include financial penalties, requirements to pay customer redress, and restrictions on firms' activities.

## **Conclusion**

The Consumer Duty represents a significant regulatory change for insurers, particularly in relation to closed products and services. With the 31 July 2024 deadline approaching, firms will need to act swiftly to ensure compliance.

Insurers who successfully embed the principles of the Consumer Duty into their operations stand to benefit from enhanced customer trust, improved product design, and potentially reduced regulatory risk. However, those who fail to meet the FCA's expectations may face significant regulatory scrutiny and potential enforcement action.

As the deadline approaches, it is crucial for insurers to maintain open dialogue with the FCA, particularly if they anticipate challenges in meeting the compliance timeframe for closed products. By demonstrating a proactive and customer-focused approach to implementation, insurers can position themselves favourably in this new regulatory landscape.

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