

Consumer Duty

Are you ready to comply with Principle 12?

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Introduction

The Financial Conduct Authority (FCA) has now published its Policy Statement and the Handbook text containing the new rules for the introduction of the new Consumer Duty together with the final non-Handbook Guidance for firms.

The Consumer Duty introduces higher standards of care for retail customers in order to achieve good outcomes and increase the level of protection against harm.

This document briefly summarises the Consumer Duty which is supported by the Cross-Cutting Rules and the Four Outcomes, the proposals previously set out by the FCA in CP21/13 and in CP21/36, and explains the position with regard to the implementation period.

For further information, [please visit our dedicated Consumer Duty hub.](#)



Consumer Duty:

Are you ready to comply with Principle 12?



Cross cutting rules:

- Act in good faith towards retail customers
- Avoid causing foreseeable harm to retail customers
- Enable & support retail customers to pursue their financial objectives.



when?

Implementation plan: October 2022



what?

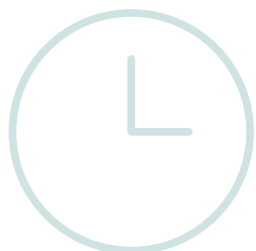
What does the FCA expect?



how?

What should you be doing now?

For more information on the new Consumer Duty, please visit Shoosmiths dedicated [Consumer Duty hub](#) or contact our experts.



when?

Implementation plan: October 2022

The Duty will apply from end of July 2023 to all existing products and services that remain on sale or open for renewal, new products and services and all new products.

From the end of July 2024 the Duty will come fully into force and will apply to all closed products and services.

End of October 2022: firms' boards (or equivalent management body) to have in place clear, robust and deliverable implementation plans.

End April 2023: manufacturers to complete the reviews necessary to meet the four outcome rules for their existing open products and services and share with distributors the information necessary for them to meet their obligations under the Duty.

End July 2023: end date for implementation of changes to existing open products and services.

In addition:

Where firms identify serious issues causing immediate consumer harm, they should prioritise action to remedy this.

Firms are to take a risk-based approach and prioritise the implementation work that is likely to have the biggest impact on consumer outcomes.

Firms are required to notify the FCA before withdrawing or restricting access to products or services in a way that will have significant impact on vulnerable consumers or market supply or if they will not be able to complete all work necessary to be compliant with the Duty before the implementation deadlines.

At the end of the implementation period(s) boards (or equivalent management body) are required to assure themselves that the firm is complying with its obligations under the Duty.



what?

What does the FCA expect?

The FCA have described the Consumer Duty as setting higher and clearer standards of consumer protection, requiring firms to put their customers' needs first.

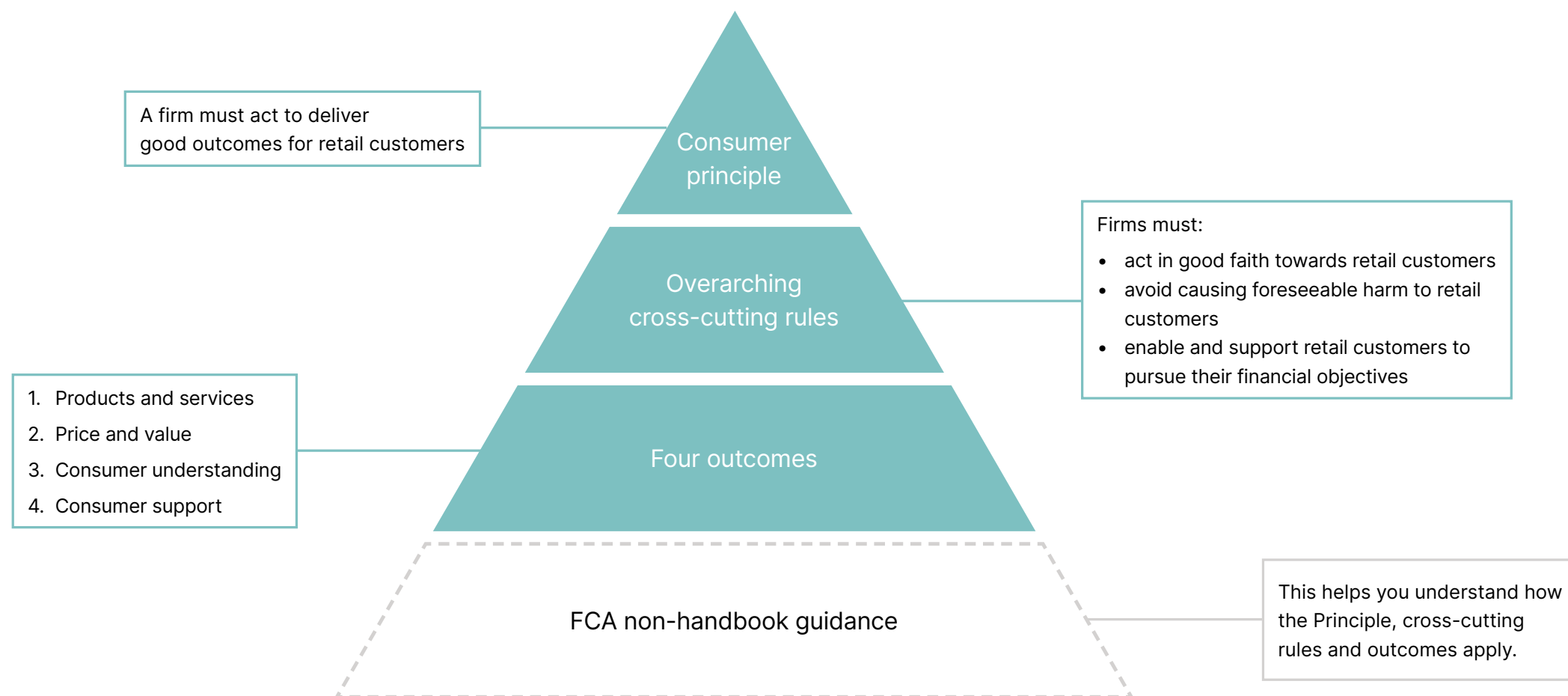
There are some clear expectations delivering against this objective.

- Customers should be the heart of the business and decisions and receive good outcomes, meeting their needs.
- Products provide fair value, allow customers to achieve their financial objectives and not cause them harm.
- Communications must be effective, timely and allow customers to make properly informed decisions.
- Firms should not exploit customers' behavioural biases, lack of knowledge or characteristics of vulnerability.
- Firms should consistently consider the needs of their customers, monitor and learn from real customer outcomes.
- Ensure boards (or equivalent governing body) takes full responsibility for ensuring that the Duty is properly embedded within the firm.
- Senior managers take accountability for the customer outcomes under SM&CR.
- Firms should appoint a Duty champion in the organisation to manage and drive requirements.
- The FCA expect firms to have a champion (ideally a Non-Executive Director) at board (or equivalent governing body) level who, along with the Chair and the CEO, ensures that the Duty is being discussed regularly and raised in all relevant discussions. The level of formality will however depend on the size of the firm and/or group.

next

However, as anticipated, the rules otherwise remain largely as set out in CP21/36.

Consumer Duty structure:



What the FCA now expects:

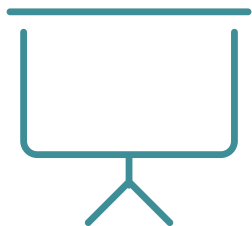
The FCA has made it clear that firms will be expected to be able to demonstrate that they understand the requirements of the new rules and have embedded them within their organisation and operations.

Compliance with the new duty will need to be reflected from the top down. The new principle will need to be embedded in a firm's governance structure and decision making, through to the development of products and services which provide demonstrable value and ensuring fair and consistent treatment of customers. Firms who exploit behavioural biases in their product design or operate sludge practices should expect to come under FCA scrutiny.

It will be of critical importance for firms to be able to demonstrate compliance by proper record keeping with the reasons for key decisions being clearly set out and referenced to obligations under the Consumer Duty.

The Product Lifecycle: being prepared





how?

What should you be doing now?

Identify a board champion and establish a framework for consideration of the impact of the Consumer Duty.



Share information about Consumer Duty in your firm and foster a positive Consumer Duty culture, helping create “buy in” for the changes and challenges ahead – **immediately**



Undertake a Consumer Duty gap analysis to include a review of policy, process, people and performance – **between now and September 2022**



Create an implementation plan for the activities that need to be completed by July 2023 and July 2024 – plan to be created, reviewed, and agreed **by October 2022**



Establish robust Consumer Duty governance, including the appointment of a Consumer Duty Champion – **immediately**



How can we help?

Shoosmiths LLP is a major UK law firm, comprising 230 partners and over 1,500 lawyers and employees.

We are committed to ensuring we provide support to all our clients affected by the Consumer Duty, helping them to understand how the proposed changes will affect them and assist them in becoming compliant.

Shoosmiths not only offer legal support, our Financial Services Compliance experts are also available to assist you with all your Consumer Duty compliance needs.

For more information on the new Consumer Duty, please visit our dedicated [Consumer duty hub](#). The hub contains key materials, articles and podcasts and details of events we will be holding and which will consider the impact of the Consumer duty across different areas of the financial services sector.

Please do not hesitate to contact any of our experts to discuss the new Consumer Duty and how it may impact your business.



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