

Inside FCA Podcast: What the Consumer Duty means for authorisation

OI: Hello and welcome to the Inside FCA Podcast. I'm Ozge Ibrahim, and today I'll be speaking to Alex MacDermott, who is a Technical Specialist in the FCA's Authorisations Division, as part of our series of podcasts on the new Consumer Duty. Alex will be specifically talking about how the Duty affects firms seeking authorisation, and the FCA's expectations ahead of implementation of the Consumer Duty in July 2023.

Hello and welcome, Alex.

AM: Hi there.

OI: Can you give our audiences an overview of what the introduction of the Consumer Duty means for firms seeking authorisations?

AM: So, the Consumer Duty is a big change in regulation, but it doesn't change the standards that we assess firms against at the gateway. So, the threshold conditions, the requirements for registration, they don't change. Firms still need to show us that they've got appropriate financial and non-financial resources, they still need to show that they can run the business in a sound and prudent manner and that they're suitable. And they also need to show that they can be effectively supervised and meet what we call the location of offices threshold condition as well. Now, though, those don't change, obviously the lens that we look through when we're assessing firms against those threshold conditions is, can they meet and comply with all the requirements of the handbook as they apply to them?

So, with the Consumer Duty, that's going to mean that throughout the firm's application, so throughout all of their systems and controls, their regulatory business plan, they really demonstrate that they've put the customer at the heart of what they do and they are able to develop, design, distribute products and services that meet their needs that are of fair value and that customers can understand. So, they're going to need to provide quite a lot of information in their application form and probably also in some supporting documents like their regulatory business plan. Now the thing with that is there are some things in the rules that are going to require maybe a specific policy such as a fair value assessment or an annual outcome monitoring plan. But there will be other elements that maybe just go through the firm like a stick of rock.

So, things around how they design financial promotions or how they explain, create prospectuses of products or terms and conditions or leaflets that go to customers and how they ensure that customers can understand that information. That might just be something that is already embedded through their sort of processes and sign off for creating those types of materials. So, I suppose what I'm saying is there's a lot in the Consumer Duty and it does mean that we're going to have a different lens that we look at when we look at application forms. And it would be really helpful if firms, when they're making the applications don't try to sugarcoat anything, tell us how it is. Tell us that you understand how the Duty applies to you and how it is that you're going to act in order to make sure that you avoid foreseeable harm and that you help your customers achieve their outcomes.

We are going to have questions in the application forms from the end of January 2023, asking for some high-level information about compliance with the Duty, and we'll also be updating our pages on [fca.org.uk](https://www.fca.org.uk) to include the sort of supporting materials that we'd expect different firms to provide, and we can make sure that links are shared and that firms can find those as easily as they can.

OI: So, what information do in-scope firms need to send the FCA to become authorised?

AM: From the end of January 2023, we're going to have specific questions in our application forms, and they ask for some very high-level information about how the firm has considered the Consumer Duty when it was developing its business plan. And also, how its senior managers are going to ensure that the Consumer Duty is considered at every stage through the business. We've also updated our website to include some information about the additional supporting information that we might ask firms to provide. And these are things such as fair value assessment frameworks, product testing arrangements, policies and processes, setting out how they're going to identify their target market, how they're going to monitor and ensure that products are being sold to people within that target market.

And then also what they're going to do if their monitoring suggests that products are being sold outside that target market. So, very much how they would put things right if they found that something had worked out not as they initially planned. So, there will be details on there and you can find that on our How to apply for authorisation page. And there will be different lists of types of information that we need firms to provide, depending on their business model. We'll also need to see the financial forecast as well, which is a big focus for us. And in there, we're going to need to see that, as I mentioned before, that the products are of fair value and that additional costs and charges are price reflective rather than being used to generate profit.

OI: And what does good look like?

AM: So, we don't want firms to just repeat back to us our rules and say things like 'our products will always be fair value.' I had one case that I looked at where a firm had said that they didn't need to do any further work on customer understanding because all customers understood their products. You know, that's a bit of a bold statement and it's obviously not enough for us to assess. We want firms to be realistic and don't just get into the practice of trying to explain or justify things or present an overly positive rose-tinted glasses view of everything. We know that financial products and services carry risks. So, it would be good if good looks like the firm calling out the types of risks of harm that are present in its business model, the types of risks that it faces as a business, and then explains how they're going to mitigate those risks and control for it.

So, in terms of what good looks like for the Consumer Duty for different sizes of firm, a really clear articulation of how the Duty impacts you and what you do and then how you're going to monitor customers are achieving appropriate outcomes, so they're getting good outcomes. And then how you're going to act to make sure that that continues.

So, how you're going to oversee that customer satisfaction scores or product performance, those sorts of things and how you're going to use that to feed in to continually sort of improve and ensure that things are working as you expected. So, that would be what good looks like for us: call out the risks, explain how the Duty applies to you and how you envisage it, and then explain how you're going to make sure that you're acting to provide good outcomes to retail customers.

OI: And given the Consumer Duty doesn't come into force until the 31st of July 2023, why are you asking firms to demonstrate this compliance now?

AM: Well, our authorisations assessment are forward looking. The rules are that we can only approve a firm that will satisfy and continue to satisfy the threshold conditions. So, the emphasis there is very much on a forward-looking basis. So, we need to make sure that firms are going to be able to continue to satisfy the threshold conditions. Therefore, they need to demonstrate that they can meet the requirements as they're going to apply to them from now onwards really.

OI: And how can a firm show it is meeting the requirements if it's not trading yet?

AM: Again, we completely appreciate that obviously a new firm coming into the gateway won't be trading, so we can't assess the outcomes they're providing unless they have maybe been an appointed representative of another firm. But let's say they're not trading at all, then again, we in Authorisations are used to this all the time. We always see new firms coming to the gateway so we need to assess that they've got the policies, processes, systems, controls and people and financial arrangements in place to meet the requirements of the Duty as they apply to them. And then if they achieve regulatory approval, they'll go off and start trading and then they'll supply regulatory data and that will be looked after by our colleagues in supervision.

OI: The FCA authorises a wide variety of firms, large and small, so will your expectations vary depending on the size of the firms seeking authorisation? And can you explain how this will work?

AM: Yes, it's the short answer. So, it depends on both the size of the firm and activity that they're doing and their role in the ultimate outcome that they provide to consumers. So, for example, a motor dealer who is effecting introductions to helping its customers find finance so they can buy a car, is going to have a very different obligations under the Consumer Duty than a fund manager or a mortgage intermediary, for example. And in the same way, a very large, vertically integrated financial institutions can have really quite a lot of obligations under the Consumer Duty. So, we would expect them to have really robust systems and controls in place to make sure that everything's being monitored and overseen and also that, you know, the people who are running the business and the governing body have got the consumer right front and centre in their thoughts when they're designing and selling their products and services.

OI: And what's the expectation on individuals in a firm?

AM: So, there's no specific senior management function for the Consumer Duty. But we do expect firms that are relatively big - so if you've got a board - we'd expect there to be someone of significant seniority to hold the role that we call the Consumer Duty Champion. And they would be there to as the name says champion the Consumer Duty across the business, and ensure that there is a senior level of challenge around the outcomes that are being provided to consumers based on the management information and monitoring that the firm is doing.

Obviously it's going to apply to different firms in different ways, the role of that Consumer Duty Champion. A sole trader who is just himself, obviously we'd just expect him to put the needs of customers first. If it's a smaller firm where there's a few members of staff, then again, there might be someone who takes a lead on things. But whether or not they're actually badged as a Consumer Duty Champion would be down to the firm to sort of consider how best they want to do that. But in larger firms, we really would expect there to be a senior member of staff on the governing body who has a role for championing the Consumer Duty and making sure the firm puts customers at the heart of what it's doing.

OI: And what type of consumer champion are you looking for?

AM: It's someone who knows the business well, has a real feel for what the customers and the target markets want to achieve and what good looks like. And they've got sufficient seniority that they can really challenge other people on the governing body or the decision makers within the business, and actually influence change should they see that something is not working out as planned and customers are not achieving the outcomes that the firm is expecting.

OI: And finally, what are the implications for firms who don't meet the requirements that you've just outlined?

- AM:** So if a firm doesn't meet the requirements, then we can't approve them. So, it would be that we would recommend that the application is refused and that's one of the things with authorisations. There are a lot of things that we assess, and you have to be able to meet all of them in order to be approved. So, with something as important as the Consumer Duty, if there are areas where you're not able to meet the requirements of that then we're not going to be able to conclude that you can meet the threshold conditions, like the suitability threshold condition or the appropriate resources threshold condition. And then that's going to lead us to recommend that your application is refused.
- OI:** Thank you for your time today, Alex. You can find out more about the Consumer Duty on the FCA's website and by listening to our other dedicated episodes in this series. Thank you for listening and join us again soon on the Inside FCA Podcast.