

Institute and Faculty of Actuaries

Regulatory Board

Steer report

Subject	Deep dive into FCA Consumer Duty: considerations for actuaries
Regulatory Board meeting	21 February 2023
Previous Board Steer/Approval	November 2022: The Board expressed an interest in understanding more about the implications of the introduction of the FCA Consumer Duty on the work of actuaries.
International Issues Considered?	No – only applies to business being sold in the UK. (Although could potentially apply to overseas companies who are selling to UK retail customers).
Author	Alan Marshall, Review Actuary
Reviewer	Emma Gilpin, Head of Regulatory Policy Karen Brolly, Partner, Hymans Robertson
Purpose	Steer

A EXECUTIVE SUMMARY

1. This paper introduces a ‘deep dive’ for the Regulatory Board (‘the Board’) on the Financial Conduct Authority (FCA) Consumer Duty (‘the Duty’) and considerations for actuaries.
2. This topic is not currently on the Board Horizon Scan, although following the discussion the Board may want to add this for ongoing oversight.
3. This paper provides some **background information**, an analysis of the **key considerations for actuaries**, and some important **issues for the Board** to consider.
4. Karen Brolly, a practising actuary, and former Chair of the IFoA Life Board, has been invited to the meeting to provide further background and expert views. Karen spoke at the IFoA Life Conference in November 2022 on this topic and provides consultancy advice on the Duty, and other products and customer topics.

B BACKGROUND

5. In the context of UK financial services regulation, the FCA has key statutory objectives to ensure consumer protection and effective competition, in the interests of consumers.

6. Firms employing actuaries in the key domains of insurance, banking, and investment are required to register with the FCA in order to conduct certain regulated activities and, in doing so, are subjected to FCA supervision.
7. In 2018 the FCA began a series of consultations to strengthen consumer protection, recognising that 'the extent and long-standing nature of consumer detriment indicate that cultural change is required within firms and the market as a whole'.
8. The Duty builds upon, and strengthens, previous FCA conduct rules and guidance, including 'Treating Customers Fairly' principles, and the outcome of specific FCA reviews in relation to customer treatment and pricing practices in a number of markets (for example vulnerable customers and loyalty penalties).

C: FCA CONSUMER DUTY

9. In 2021 the FCA proposed 'a new Consumer Duty', a reformed regulatory structure to tackle consumer harms, with consultations taking place during 2021 and early 2022. The IFoA supportive response to the FCA consultation is available [here](#).
10. Following the consultation the FCA published [final rules and guidance](#) in July 2022, with implementation phases to take place in 2023 and 2024.
11. The key aspects of the Duty are as follows:
 - A new Consumer Principle that requires firms to act to deliver good outcomes for retail customers.
 - Cross-cutting rules providing greater clarity on FCA expectations under the new Principle and helping firms interpret the four desired outcomes (see below).
 - Rules relating to the four outcomes under the Consumer Duty, centred around key elements of the firm-consumer relationship instrumental in helping to drive good outcomes for customers.
12. The cross-cutting rules require firms to a) act in good faith, b) avoid foreseeable harm, and c) enable and support retail customers to pursue their financial objectives.
13. The four outcomes set out in the new rules and guidance cover:
 - Products and services
 - Price and value
 - Consumer understanding
 - Consumer support
14. Firms are currently undertaking large-scale programmes to prepare for the introduction of the new regulation, and the FCA recently published [a review](#) of how firms are planning to implement the Duty. This found that many firms show they understand and embrace the shift to delivering good customer outcomes. However, the FCA also found that some firms are further behind in their planning, so there is a risk that they may struggle to apply the Duty effectively once the rules come into force.
15. The FCA has said they plan ongoing engagement and communications in the run-up to implementation of the Duty later this year, reflecting their considerable focus on this key regulatory activity.

16. The implementation of these rules will be on a gradual basis, with the following dates applying depending on front or back-book products:
- for new and existing products or services that are open to sale, or renewal, of the rules come into force on 31 July 2023
 - for closed products or services, the rules come into force on 31 July 2024

D: KEY CONSIDERATIONS FOR ACTUARIES

17. This section sets out a non-exhaustive summary of key considerations for actuaries that implementation of the Duty may bring.
18. The Duty is likely to have a material impact on UK-regulated firms operating in domains where actuaries are employed, with areas such as product pricing, product design and customer communication a key focus.
19. There may be a renewed focus on legacy pricing and product design, areas where actuaries have had significant involvement, and increased pressure on firms to act in terms of changes to drive fairer outcomes.
20. Actuaries may be involved in the collation and analysis of data required to fulfil the evidencing requirements of the Duty, and appropriate reporting to the Boards of relevant firms.
21. The Duty aims to further mitigate potential conduct risk failures, and over time this may lead to a reduction in the reputational damage that the financial services market suffers from high profile conduct failings.
22. Consumers may be more likely to engage with and use financial products, where providers get better at assessing the target market for products, make sure that they assess the needs of individuals in the target markets and then design products that meet those needs. This could be a major benefit to both consumers and firms.
23. The Duty may increase focus on financial inclusion, an area that the IFoA has highlighted in the past, and one that remains a challenge during this period of high inflation.
24. The proposed changes may mean more customer-fairness focus on traditional actuarial areas of data selection, analysis, and modelling, for example in relation to pricing. With-profits products are a further area of typically significant actuarial involvement that may have increased focus under the new Duty.
25. There is a risk of an insufficient balance between consumer and commercial perspectives as the Duty places further emphasis on consumer rights. This is to an extent mitigated by the competition objective of the FCA.
26. Actuaries may face conflicts within their role and find it harder to appropriately balance consumer and commercial outcomes. This may require further actuarial regulatory support for IFoA members.
27. Actuaries may be in senior roles with either day-to-day responsibility in meeting the requirements of the Duty, or to provide oversight and challenge to those doing so. The

implementation of the Duty at firms will be monitored by the FCA, including that the requirements of the Senior Managers & Certification Regime (SM&CR) are being followed.

E: CONCLUSION

28. The Board is asked to consider whether any of the points raised during the course of the discussion indicate the need for IFoA regulatory activity to address any perceived public interest risks at this stage.
29. The Board is asked to note, in its consideration of steps to take, that the primary responsibility for enforcing and implementing this significant regulatory development rests with the FCA. It is also not yet fully in force.
30. Some steps that the Board might want to consider are:
 - Are there any specific requirements that ought to be addressed by way of an APS (or TAS if relating to a technical issue)? If so, what might these be?
 - Would non-mandatory guidance be appropriate and helpful for members in relation to any issues relating to the Duty?
 - Are there any specific issues identified that the Board considers should be communicated to Members by way of a Risk Alert?
 - Is there career-long learning material that should be developed to provide support to Members working in this area?
31. It is also suggested that as an initial step, the Duty should be added to the Horizon Scan in order for it to remain highlighted to the Regulatory Board during the implementation phase.

F: Appendices

- None