

Consumer Duty: What lies ahead for firms?

The incoming Consumer Duty (CD) regulation promises to be a key moment, some commentators are saying 'pivotal moment', in the history of regulation in financial services. I accept some of you think that I'm overstating things, however, let me explain why I think CD will represent a seed change for firms and their response to regulation.



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CD will require a completely different approach from firms and individuals alike. Historically, firms have responded to previous regulation with new or amended policies, frameworks, procedures and governance arrangements.

This has been successful for three reasons; firstly, because most regulation addresses a particular part of a firm's operation and so 'point' responses have worked, e.g. Training & Competence, or complaints management. Secondly, because the regulator's focus has been on the changes firms make to what they do, i.e. processes, and behaviours etc. However, because CD is outcomes based, the regulator is interested in the consequences of these process and behaviour changes, not the changes per se.

And that leads me to my third and final reason. When the FCA introduced SM&CR and asked firms to use it to as a cultural framework, for many this wasn't how it was implemented. Many firms satisfied themselves by simply introducing a

governance framework for senior managers and an updated set of processes for evidencing competence, and running the new routines required by SM&CR without having a key focus on the cultural changes the regulator was looking for. This simply won't work for CD because the FCA is putting culture even further 'centre stage' in its expected response from firms, and the expected culture change is far broader, more subtle and altogether likely to be more challenging to introduce.

For me then, there are three things that make CD different from everything that has gone before; its focus, i.e. 'outside in, not inside out', its breadth, i.e. every part of a firm that touches a consumer, or has an impact on the consumer experience and finally that, at its core, CD is about culture and behaviour change within firms. Pivotal indeed.

So, looking at what firms should be doing to prepare themselves for CD, firms need to think very carefully about how

they implement this particular piece of regulatory change. Not least because the regulator is seeking change that delivers different outcomes than those which have gone before. Of course, the initial focus should be on conducting a gap analysis of where you are now and where you need to be at inception of the new regime. This should be followed by putting together an implementation plan which, don't forget, needs to be signed off at board level by 31st October. This should be backed up by a well-resourced project team, appropriate and sufficient project funding and, last but not least, appropriate senior leadership sponsorship.

However, what makes implementing altogether trickier are the factors outlined above. To be successful therefore, firms need to be ready to think differently.

Although not exhaustive, here are a set of questions to ask yourself or discuss with your colleagues that might help you down the 'implementation path' with the right focus / mindset. It's certainly typical of the questions we see our customers grappling with as they work through their plans:

- What are the consumer touchpoints your firm needs to measure?
- What data needs to be collected to evidence good outcomes, from whom and how?
- How and by whom will this data be evaluated, e.g. subjective terms like 'in good faith', 'value' etc., need careful judgement?
- Which Senior Managers will be accountable for delivering the component parts of CD ? (Don't forget – the FCA have stated they don't expect to see one accountable Senior Manager for CD).
- How will this data be integrated into existing monitoring dashboards?
- How will outcomes data find its way into

all parts of the firm to ensure teams and individuals are adapting their approach based on this data and evidence that is the case?

- What will the training for the new conduct rule, i.e. 'act to deliver good outcomes for retail customers' look like?
- How will you make any training input "role relevant?"
- How will every member of staff evidence their alignment with the new conduct rule in their day-to-day work?
- How will the Consumer Duty Champion, i.e. NED, keep CD 'front of mind' for the entire firm?
- How will your firm evidence that you are helping consumers make better decisions in their best interests?

It's understandable if this feels a little daunting, however the firms that manage to embrace CD, letter and spirit, will no doubt gain true competitive advantage, both reputationally and financially.

That's the light that everyone should remember as they enter the tunnel!

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