

Consumer Duty

Outcome 3: Consumer understanding

How should firms approach this outcome?

Assess: Firms will need to assess all communications provided to customers (not only those required by law), focusing on how information is received and understood by customers, and not on how it is delivered.

Change: Customer communications may need to be redrafted following an assessment of how they are understood by customers.

Adapt: Communications that do not meet the FCA's expectations may need to be updated or withdrawn.

Monitor: Firms will need to monitor the performance of communications on an ongoing basis, including whether customers are acting in accordance with those communications.

What do the rules mean in practice when assessing consumer understanding?

Act in good faith: Avoid delivering communications in a way that exploits consumers' information asymmetries and behavioural biases. Firms should 'put themselves in their customers' shoes' and consider whether their communications equip customers with the right information, at the right time, to assess products and services and make effective decisions.

Adopt good practices: Generally enhance the clarity of communications, and, where possible, act to make communications more effective.

Consider target market: Aim to segment or target communications to make them more relevant to the intended recipients, rather than adopting a 'one size fits all' approach.

What you should be thinking about when planning your implementation plan

Equip customers to make effective decisions: Firms should ensure that communications are understandable by the intended recipients and presented in a way that is clear visible and accessible, irrespective of the communication channel used.

Existing disclosure requirements: Firms should continue to comply with existing regulatory and legislative disclosure requirements but should consider additional steps they can take to enhance consumer understanding.

Ensuring information is provided on a timely basis: Firms should communicate with customers in a timely manner and at appropriate touch points throughout the product lifecycle (such as at contractual breakpoints), giving them an appropriate opportunity to take in the information and, where relevant, assess their options.

Consumer Duty

Outcome 3: Consumer understanding

What you should be thinking about when planning your implementation plan (cont.)

Tailoring communications: Communications should be suitably tailored for the needs of the intended target market, including characteristics of vulnerability. For example, the information needs for the target market of a complex investment product such as a leveraged contract for difference will likely be different than for a relatively simple mass-market product such as an instant access savings account.

Testing communications: Firms have discretion to develop an approach to testing (where appropriate) that provides assurance that consumers can identify and understand the information needed to make effective decisions. Of interest to firms is that the FCA has indicated that there may be scope to simplify some mandatory disclosure requirements, if firms have evidence from their testing activity that certain mandatory disclosures do not support consumer understanding.

Data and monitoring: Firms should monitor whether their communications are supporting customer understanding and helping their customers make effective, timely and properly informed decisions. At all times firms should consider whether customer behaviour is consistent with their communications. For instance, notably low response rates could be indicative of ineffective communications.

This is part of a series of guides designed to help your organisation better understand the requirements of the FCA's new Consumer Duty.

Hogan Lovells can help you at every stage of your Consumer Duty journey. We can implement the full toolkit and manage your project through to completion, or we can get involved in specific elements of your workstreams. Please contact one of the team members below to find out how we can advise you.

The Consumer Duty hub on the Hogan Lovells Engage Premium website brings together recent developments, insights, webinars and videos from our team on a range on Consumer Duty-related topics.

Visit <https://engagepremium.hoganlovells.com/resources/consumer-duty> to find out more.

Key contacts



James Black

Partner – Banking, Lending & Payments
T: +44 20 7296 5898
james.black@hoganlovells.com



Michael Thomas

Partner – Investments & Markets
T: +44 20 7296 5081
michael.thomas@hoganlovells.com



Mark Aengenheister

Principal Consultant - Hogan Lovells Consulting
T: +44 20 7296 5716
mark.aengenheister@hoganlovells.com



Dominic Hill

Consultant – Investments & Markets
T: +44 20 7296 2297
dominic.hill@hoganlovells.com