

Consumer Duty

Relationships with third parties

To comply with their obligations under Consumer Duty, most firms will need to consider their relationships with third parties. Any changes to those relationships may mean that new negotiations might need to be entered into and new arrangements implemented – and the firm’s implementation plan will need to take that into account.

Third party relationships that are likely to be affected by Consumer Duty can be divided into three categories:

1) Third parties in the distribution chain

Many firms will already have thorough arrangements in place regarding their distribution chain – but even the most prepared firms will find themselves subject to additional requirements under Consumer Duty.

Manufacturers of products will have identify the target market – with a sufficient degree of granularity – and “ensure” that the product is distributed to the identified target market. To be able to meet these requirements, manufacturers may need to engage with their distributors to a greater degree than they currently do, and they may need to amend or renegotiate their distribution agreements to include appropriate protections.

Manufacturers are also expected to support distributors – e.g. by giving them additional information about the target market, or offer additional training about the products.

Distributors will want sufficient information from manufacturers to ensure that they can distribute the product appropriately, and will want to see the new Consumer Duty outputs from manufacturers before they can finalise their own arrangements for complying with Consumer Duty.

Any implementation plan will need to factor in all of these steps.

2) Outsourcing arrangements

There are already detailed PRA and FCA rules regarding outsourcings – but any existing arrangements may need to be revisited in order to comply with the new rules.

Firms which outsource to service providers may need to consider:

- Whether they need to change the service description or service levels in their outsourcing agreements to support any additional steps that the firm needs to take to comply with Consumer Duty.
- Whether the terms of the agreement will allow them to do so – and what the additional cost will be.

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2) Outsourcing arrangements (cont.)

The firm's implementation plan for Consumer Duty will need to allow:

- The firm to identify the necessary changes to the services
- The parties to amend (and possibly renegotiate) the outsourcing agreement
- The provider to implement the changes
- Where applicable, both parties to comply with the regulators' operational resilience requirements. Services that amount to important business services will need to be identified, impact tolerances will need to be determined, the arrangements documented and mapped, and testing carried out before the services come into effect.

3) New services

The new Consumer Duty requirements may mean that firms need to procure new services from third parties – e.g. new software providers to help create additional data and MI, or third parties to provide focus groups to assist with the testing of products.

Firms will need to factor in time to determine whether they need new services, engage in a tender process, negotiate the new contract, and then implement the new services in time for the implementation deadline of **July 2023**.

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.

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