

Consumer Duty

Your Partner For What's Next



Introduction

The level of consumer protection in the financial services sector is rapidly increasing and firms are now expected to make long-term strategic decisions to place their focus on fair business practices and provide effective actions to achieve good customer outcomes. Recurrent and more recent issues such as the focus on vulnerable customers, the COVID-19 pandemic, the development of digitalisation and innovation in financial products and services can weaken the consumers' position when they make a financial decision.

Higher expectations need to be set and firms must embed culture and conduct into each step of their customer journey and more broadly into their business model and strategy.

In May 2021, the Financial Conduct Authority ("FCA") commenced a consultation process on a new Consumer Duty and has signalled its intention to pursue outcomes-based regulation when it comes to consumer protection. While this publication is applicable to the UK market, it can be read as a guide for Irish firms to assess their current Conduct Risk Framework and governance structure to meet future regulatory expectations.

Background to the UK Consumer Duty

Various external factors and new issues have intensified the focus on detrimental consumer outcomes and given grounds for the introduction of a new Consumer Duty for firms. This is especially the case with the growing dependence on digital products and services. While customers are now offered a wider range of solutions which increases competition and drives prices down, this new environment has proven riskier and more complex. The COVID-19 pandemic has exposed the impact that technological innovations can have on vulnerable consumers and the potential problems arising when firms do not address their customers' financial literacy.

To achieve better customer outcomes, the FCA has proposed a set of rules and guidance that comprises the following elements:

- A new Consumer Principle that sets the general standards of expected conduct;
- Overarching Cross-cutting Rules which develop these expectations and their application firm-wide; and
- Four Outcomes which are a set of rules and guidance providing more detailed expectations for firms' conduct that form part of an optimal firm-customer relationship.

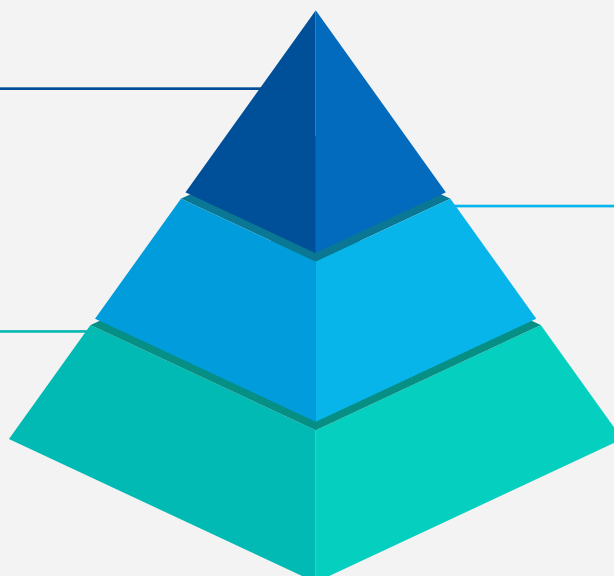
CONSUMER PRINCIPLE

A new Consumer Principle that sets the general standards of expected conduct.

FOUR OUTCOMES

The Four Outcomes are a set of rules and guidance providing more detailed expectations for firms' conduct that form part of an optimal firm-customer relationship:

1. Communications;
2. Products and services;
3. Customer services; and
4. Price and value.



OVERARCHING CROSS-CUTTING RULES

Overarching Cross-cutting Rules develop conduct expectations and their application firm-wide.

Firms should take reasonable steps to:

- Avoid causing foreseeable harm; and
- Enable customers to pursue their financial objectives.

Firms should act in good faith towards customers.

Key Implications for Irish Firms

While the new Consumer Duty is specific to the UK market and regulations, the issues highlighted in the consultation paper such as the risks emerging from the COVID-19 pandemic or the heightened digitalisation in the financial services sector are predominant topics in the Irish regulatory landscape. Therefore, the report can be regarded as a potential indicator of future regulatory scrutiny in Ireland. Consumer Protection is already at the forefront of the New Consumer Agenda published by the European Commission in November 2020 which is setting EU Consumer Policy priorities from 2020 to 2025. For more information, please visit our website: [New Consumer Agenda - KPMG Ireland \(home.kpmg\)](https://home.kpmg.com/ireland/en/issuesandinsights/articlespublications/new-consumer-agenda-2020-2025.html).

Four key outcomes have been identified for firms to take into account when assessing their relationships with customers. These four outcomes have been considered in the context of the Irish market below:



Communications

Communications must be used by firms to provide customers with timely, suitable and clear information that they need, and enable them to make informed decisions. Communications should be reasonable and appropriate in the way they are presented and / or adapted to different types of customers. One of the key considerations for firms outlined by the Central Bank of Ireland (“CBI”) in the Consumer Protection Outlook Report is the transparency of information provided to customers. Clear information should be provided in a timely manner across all customer engagement channels. For more information, please visit our website: [Dealing with Consumer Protection in 2021 - KPMG Ireland \(home.kpmg\)](https://home.kpmg.com/ireland/en/issuesandinsights/articlespublications/dealing-with-consumer-protection-in-2021.html)

This is even more important in recent times as digital sales are increasing and consumers may be overwhelmed with the variety of products and services available. The COVID-19 pandemic restricted our movements, and this has resulted in a change in customer behaviour. Higher reliance during the crisis on online channels has brought about greater change and increased the trend towards end-to-end digital customer engagement channels. This is being further exacerbated in retail banking by the increased number of branch closures in both rural and suburban areas. The CBI has noted that firms must consider the customer impact of the decision carefully as customers are being put at risk of having difficulty in accessing the most basic financial services. The European Commission is currently reviewing the Distance Marketing of Consumer Financial Services Directive in light of the increase in digitalisation, as customers have increasingly noted that information should be provided in a way that is adaptable to the digital environment so that they can understand the key points. For more information, please visit our website: [Consumer Financial Services Directive - KPMG Ireland \(home.kpmg\)](https://home.kpmg.com/ireland/en/issuesandinsights/articlespublications/consumer-financial-services-directive.html)

The pandemic has also resulted in the growth of vulnerable customer segments that are at risk of financial abuse. Firms need to meet expectations in how they treat this category of customer. Identifying

and acting on potential vulnerability characteristics is determinant in providing suitable business practices and should be a point of focus for firms. Establishing a Vulnerable Customer Framework will enable firms to do this and consider the treatment of these customers across their business. For more information, please visit our website: [Addressing Customer Vulnerability in Ireland - KPMG Ireland \(home.kpmg\)](https://home.kpmg.com/ireland/en/issuesandinsights/articlespublications/addressing-customer-vulnerability.html).



Products & Services

Products and services must be fit for purpose and approached in a holistic manner in the end-to-end customer journey. This requirement needs to be considered at every step of the sales process, from designing to marketing and distribution. The end customer should be placed at the heart of each decision and appropriate products and services should be designed and sold taking into account the consumers' needs.

We have observed that products are sometimes designed in a way that increases complexity, hides potential costs or makes them unsuitable to consumers' needs, all of which result in poor customer outcomes. It is becoming necessary for firms to test the full lifecycle of products and services and ensure they are robust and suitable to customers' expectations. Identifying gaps early in the process is a guarantee that the risk of potential harmful behaviours is mitigated or remediated.

These questions are already seeing direct implications from the CBI who has outlined the need for firms to ensure suitability throughout products' lifecycle in the Consumer Protection Outlook Report. In addition to proposing a responsible sales process, this also involves firms ensuring that they have sufficient information on the customers' needs and objectives and that the suitability of products brought to market is monitored on an on-going basis. Firms must consider potential behavioural biases and their consequences on customer outcomes.



Customer Service

Firms need to provide customer service throughout the entire relationship with the consumers at a level that meets their needs. That level of service should enable customers to realise the benefits of the products and services and provide them with ways to act in their own interests. Incorrect practices have been identified in the UK which are preventing customers from switching, transferring or cancelling services or products. The CBI introduced provisions to the Consumer Protection Code ("CPC") 2012 effective from the 1st January 2019 that sought to reduce barriers to switching mortgages and enhance transparency in the sector. Further to these amendments, the CBI has also signalled its intention to continue the review of the CPC in order to evolve and strengthen customer protection. This will focus on the trend towards digitalisation and addressing vulnerabilities among consumers, with a consultation process launching in the first half of 2022.

To remedy these potential poor outcomes, firms need to apply a holistic approach to the way they assess products and services and make sure the barriers to good customer outcomes are removed. In recent years, major conduct risk issues have been observed and identified through the complaints handling process. The capacity for firms to operate with strong Management Information ("MI") in order to identify and escalate poor customer services is crucial.

The CBI has identified the absence of consumer-centric culture as a key risk and has increased its focus on building effective culture as a safeguard against poor

customer outcomes. As it is crucial that firms align people and risk to ensure long-term success, they need to assess their culture journey and address gaps to embed a robust culture within the business. In addition, the introduction of the Individual Accountability Framework ("IAF") has intensified the focus on accountability and culture with enhanced regulatory responsibilities. For more information, please visit our website: [Individual accountability and conduct standards - KPMG Ireland \(home.kpmg\)](https://www.kpmg.ie/individual-accountability-and-conduct-standards)



Price & Value

Similar to communications, products and services and customer service, firms must provide a fair price to customers and deliver a robust approach in the way they assess price and value during the product lifecycle. The benefits should be reasonable compared to the price charged to customers.

Without actually setting the price level for products and services, regulators aim for firms to consider the relationship between the price they charge and the value delivered to consumers. It should be fit for purpose and be part of the firms' product governance measures, or this might result in poor business outcomes. Clear and transparent communication on the products' benefits, adapted to the consumers' level of financial literacy, plays an important part on how they assess value.



Self-Assessment Questions

The issues reflected on above can widely be addressed by embedding a robust Conduct Risk Framework into a firm's operations. The alignment between risk, product and consumer is the key to bettering customer outcomes in the long-term.

Firms need to consider whether they are in a position to appropriately respond should potential or actual consumer harm occur and how their approach would fare if presented with regulator, governmental or media scrutiny. Below are some of the questions that firms should consider:

1. Products and services should be assessed at each step of the customer journey to ensure good customer outcomes. Do your product design, marketing, sales and post-sales processes consistently consider good customer outcomes?
2. It is anticipated that regulators will focus on the identification and treatment of vulnerable customers. Do you have a detailed and embedded vulnerable customer policy with clear expectations? How are you supporting customers who are digitally disadvantaged?
3. The use of MI and data analytics is crucial to show the quality of a firm's risk management processes. How strong is your MI in evidencing good customer outcomes and monitoring activities and areas of improvement?
4. Fair customer treatment should be embedded into all aspects of the firms' activity and Board and Senior Management Teams should be receiving regular reports / updates. Can you demonstrate an adequate level of reporting to evidence the appropriateness of products and services, customer service or overall value offered to the consumer?

For more information, please visit our website: [Conduct risk - Aligning strategy with people & risk - KPMG Ireland \(home.kpmg\)](https://home.kpmg/ie/en/issues-and-insights/articlespublications/conduct-risk-aligning-strategy-with-people-and-risk.html)

How can KPMG help?

KPMG's Risk Consulting experts have extended experience in conduct risk and regulatory support across financial services and insurance sectors. KPMG provide risk and regulatory advice, proposition design, operational risk, and control optimisation services. We can ensure that you have appropriate frameworks in place to meet regulatory expectations and ensure that risks are managed and controlled to avoid poor customer outcomes and weak market stability due to inappropriate actions and practices. Our team can assist on the following situations:

- Provide guidance on regulatory expectations and industry practice in terms of what a comprehensive Conduct Risk Framework looks like;
- Assess the completeness and effectiveness of your Conduct Risk Framework, identify any gaps and make recommendations;
- End-to-end customer journey mapping, identifying vulnerable customer touchpoints and designing appropriate controls to reduce the risk of customers receiving poor outcomes;
- Review your risk assessment framework, including a focus on digitalisation and the impact this has on your customer base; and
- Use our specially designed data-led risk assessment framework to assist in managing conduct risk using quantitative data which is over laid with qualitative key performance indicators.



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