



# Motor retailer's guide to the FCA's consumer duty

 **AutoTrader**

IN PARTNERSHIP WITH  
 **Auxillias**



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## An introduction to the consumer duty

### Summary

The Consumer Duty is a suite of new regulations introduced by the FCA that set a higher standard for the treatment of consumers using financial services and products. The duty requires firms to put their consumer's interests first, making it easier for them to make decisions in their best interests and receive good outcomes.

The regulator has gone as far as to challenge businesses to consider if they are applying the same resources to ensuring good customer outcomes as they do to generating sales and revenue.

### Purpose of document

This document has been created as an overview of the Consumer Duty for retailers and dealers in the automotive industry that offer retail finance products. It contains a summary of what the Consumer Duty is, plus a checklist to provide a broad overview of considerations and example activities for businesses in order to prepare for the introduction of the Consumer Duty in July 2023.

#### DISCLAIMER:

This guide was written by Auto Trader Limited and Auxillias Limited and is our interpretation of the new Consumer Duty. It is provided for general information only and it is not intended to amount to advice on which you should rely. We make no representations, warranties or guarantees, whether express or implied, that this guide is accurate, complete or up to date. This guide should not be used as an implementation plan in itself. Full FCA publications in relation to Consumer Duty can be found on the Financial Conduct Authority (FCA) website and are detailed in the 'Helpful Links' section of this document. If you require assistance in creating an implementation plan that is right for your business, please seek professional advice. Auto Trader Limited and Auxillias Limited own all intellectual property rights in this guide and you must not use any part of it for any commercial purposes without obtaining a licence to do so from them.

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## Consumer duty overview

### The 'Consumer Principle'

This is the overarching principle that defines the purpose of all the new Consumer Duty regulation, that 'firms must act to deliver good outcomes for retail customers.'

### The Cross-Cutting Rules

- 1** 'Acting in good faith' (e.g., not taking advantage of any lack of knowledge on the consumer's part)
- 2** 'Avoiding foreseeable harm' (e.g., performing affordability checks prior to application)
- 3** 'Supporting consumers in achieving their financial objectives' (e.g., providing a straightforward method of cancelling a product should it be in the customers interest to do so)

These cross-cutting rules outline the behaviours the FCA expect from firms in order to achieve the four outcomes. For example, if a firm is not acting in good faith and being open and honest about their products or services, they will not be able to meet the outcome of 'consumer support' (as shown in the box on the right).

### The 'Four outcomes'

**Product and services**  
The actions required for this outcome will differ depending on firm status as a manufacturer, co-manufacturer, or distributor. Overall, it requires firms to work to ensure the products and services they offer are right for the end consumer and consider any vulnerabilities their target market may have that can be accounted for.

**Price and value**  
Firms should focus on the fair pricing of their products and offering value for money. Firms should review commission arrangements for example and ensuring they do not encourage the sale of products that are not in the consumer's interest.

**Consumer understanding**  
The FCA feels the consumer is often placed at a disadvantage due to a lack of knowledge about the products or services a firm is selling, while the firm has the greater understanding. This outcome serves to make firms address this imbalance to allow consumers to make informed decision. This could take the form of providing further information in an easily digestible and accessible way when it is most relevant to the consumer.

**Consumer support**  
This outcome includes the numerous ways in which firms act to communicate with consumers and provide their services. There should be straightforward processes, the key message from the FCA here being that it should not be any more difficult to cancel, switch or complain about a product than it is to purchase it initially.

### Why this is important

The FCA has been clear in the Consumer Duty that the bar needs to be raised when it comes to businesses looking after their consumers. All businesses will need to adapt to fall in line with its requirements in time for July next year.

For many firms this could represent a significant cultural and practical change in how their business is run, and the regulator will expect the regulations to be applied from the top of the business at board and senior management level, down to the shop floor.

While the new duty may appear daunting, it is all for the greater good. The regulator's aim to place consumers at heart of businesses will not only benefit consumers themselves, but also firms who can enjoy the benefit of retaining consumers and attracting new ones.

#### CONSUMER PRINCIPLE

A firm must act to deliver good outcomes for retail customers

#### CROSS-CUTTING RULES

Firms must:

1. Act in good faith towards retail customers
2. Avoid foreseeable harm to retail customers
3. Enable and support retail customers to pursue their financial objectives

#### FOUR OUTCOMES

1. Product and services
2. Price and value
3. Consumer understanding
4. Consumer support

### Key FCA milestones

1	2	3	4	5
<b>27 July 2022</b>	<b>31 October 2022</b>	<b>30 April 2023</b>	<b>31 July 2023</b>	<b>31 July 2024</b>
Final rules and guidance published.	Firms' boards (or equivalent management body) should have agreed their implementation plans and be able to evidence they have scrutinised and challenged the plans to ensure they are deliverable and robust to meet the new standards.	Manufacturers should have completed all the reviews necessary to meet the outcome rules for their existing open products and services so they can share with their distributors to meet their obligations under the duty, and identify where changes need to be made.	Implementation deadline for new and existing products or services that are open to sale or renewal.	Implementation deadline for closed products or services. First annual board report due.

[www.fca.org.uk/firms/consumer-duty](http://www.fca.org.uk/firms/consumer-duty)

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## Consumer Duty Checklist

The following checklist, whilst not exhaustive, looks to provide an overview of the areas you might want to consider focusing on when preparing for implementation of the Consumer Duty, and also suggests a number of examples of the type of activities that you also may wish to think about;

PLANNING	COMPLETED
Implementation Plan presented to board/senior management and agreed	
<b>If not completed;</b>	
Check FCA guidance on Consumer Duty and if required consult on any areas where further clarification is needed	
Create plan detailing actions required in readiness for Consumer Duty going live July 2023 and agree individual responsibilities	
Present to Senior Management/Board for approval (if appropriate)	
TRAINING AND AWARENESS	
Identify new Consumer Duty training requirements for all relevant staff	
Update existing training content with respect to new rules	
Determine how awareness of the Consumer Duty amongst staff can be assessed E.g. online training and assessment, mystery shopping	
SUPPLY CHAIN CONSIDERATIONS	
Establish if your businesses is a distributor, manufacturer or co-manufacturer (2.12, page 9) and the rules regarding oversight that may apply <a href="#">(Click here for link)</a>	
CUSTOMER SERVICE	
Is the current customer service provision satisfactory and assisting in providing good outcomes for your consumers?	
How is this monitored? E.g. Customer feedback, enquiry MI, follow up, complaints data	
SENIOR MANAGERS & CERTIFICATION REGIME (SMCR)	
Perform a SMCR review – What role does each Senior Manager play in delivering good outcomes for consumers?	
Ensure senior management understand their responsibilities under Consumer Duty and it is clearly outlined in their Statements of Responsibilities	
Consider impact of governance, remuneration policies on delivering good outcomes	
Ensure Consumer Duty will be discussed and raised when appropriate at Board or Senior Management level by;	
• Appointing a champion at Board/Senior Management level (if appropriate)	
• If there is a Board ensure the Chair and CEO understand this is part of their responsibilities	

SYSTEMS AND CONTROLS	COMPLETED
Use 'Key Questions for firms' on Culture and Governance and Customer Outcomes from FCA to identify areas of weakness in the business <a href="#">Click here for link</a>	
Allocate responsibility, and develop delivery plan, of an annual board/Senior Management report to assess if products and services are delivering good outcome for consumers (first annual report tbc by end July 2024)	
Record-Keeping - Is there sufficient record-keeping in line with the expectations in the Consumer Duty?	
Change Management - When changes are made in processes or products, are these documented and approved by the necessary people?	
Identify the management information available that will provide relevant feedback on performance and effect on consumer outcomes	
Ensure awareness of which products the Consumer Duty will apply to (regulated products only, but closed products are within scope)	
Conduct product reviews in light of cross-cutting rules and four outcomes;	
• Ensuring the product meets their target customers' needs,	
• Its features work as intended, and	
• It is fit for purpose	
• Identify any remedial action required	
Consider risk and compliance monitoring and oversight in light of Consumer Duty requirements	

In Summary, what you need to consider as a retailer is as follows:

Other than the key areas of consumer duty outlined above: -

You will need to look beyond compliance to strategy, data and technology

Stay up to date with Consumer Duty insights

Set clearer and higher standards for the culture and conduct the Financial Conduct Authority expects of you

Consider if you are a distributor, manufacturer, co-manufacturer, or all of these.

As a retailer, you will be a distributor with the responsibility to implement the consumer duty rules but also you have responsibilities to your manufacturer (for example your lender) as well as to the customer and the regulator. You might also be a manufacturer and if you are then you will need to review the rules to determine this.



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## Auxillias Support

### About Auxillias

Auxillias specialises exclusively within the consumer, motor, asset finance and leasing sectors, providing legal, regulatory, compliance, advisory, consultancy and training services.

Co-founded by Joanne Davis and Daksha Mistry, Auxillias has developed into a respected, market-leading bespoke legal and compliance firm that has become the go-to provider for companies in the sectors it serves. It supports its clients not only with their consumer products but also with business lending products to SMEs and has the expertise to support the end-to-end operations of its clients' businesses, to ensure that they are compliant with regulations and meet industry standards.

### How Auxillias can help retailers with Consumer Duty:

Regulatory and compliance topics can be complex and one of the ways we are different is that we deliver practical, clear advice. Our expert team understands the end-to-end operations of clients firms and so we offer services across the board. We make sure that you and your colleagues know how to be compliant with regulations and meet industry standards.

We have worked on many implementation plans, which have now been signed off by our clients' boards. We are now working with retailers and lenders on implementing their plans ahead of the deadline and would be happy to support you.

Auxillias has prepared a range of solutions for lenders and retailers to help them with their implementation of the new Consumer Duty. Whether its sense checking, internal plan, guiding compliance teams or working directly with you to put in place the necessary infrastructure, we have a tailored solution for you.

For more information go to [www.auxillias.com](http://www.auxillias.com)

or [contact us here](#).

### Helpful Links

[FCA rules and guidance](#) (click on the links)

[FG22/5 Final non-Handbook Guidance for firms on the Consumer Duty](#) – FCA, July 2022

[PS22/9 A New Consumer Duty Feedback to CP21/36 and final rules](#) – FCA, July 2022

[FCA Consultation Paper CP21/13 - A New Consumer Duty](#) – Auxillias, 13th September 2022

What does the manufacturer (for example the lender) need from you and what as a distributor do you need to think about?

#### Here are a few pointers:

- It will require distributors (you) to share relevant sales information with the manufacturer (the lender) to support putting together both the Products & Services and Price & Value assessment documents. Services must also be covered by the review this includes your sales processes as well as a review of any digital/operation of a platform.
- You will be required to input into the lenders/manufacturers target markets and once completed, you will be required as a distributor to follow it.
- If you have a particular distribution strategy to supplement the manufacturer's strategy, you will need to provide this, but it must be consistent with the manufacturer's intended distribution strategy and the identified target market. This will need to be agreed between you.
- You as the retailer/distributor has an important role in products getting to market and you therefore must check that your charges and commission arrangements across the chain could not cumulatively result in the product ceasing to provide fair value.
- Where there is an OEM that sets and control some of the pricing at the start of the chain – an assessment must be carried out here first to ensure the price and value outcome is achieved. They might be classed as an influencer under the rules and therefore will need to take part in the consumer duty implementation planning.
- The fair value rules require you as distributors to understand at least the benefits of the product to the target market, the price and associated fees and whether any of the combined charges cause the product to become poor value.
- As a distributor, you must ensure that your own charges for distributing the product or service represent fair value.
- As a distributor, you must obtain relevant information from the manufacturer to understand the value a product or service is intended to provide and to enable them to understand whether their distribution arrangements (including any remuneration it or another person in the distribution chain receives) would result in the product or service ceasing to provide fair value to retail customers.
- As a distributor, you will need to consider the cumulative impact of the remuneration added by each person in the chain on the overall value of the product to the customer.
- If the Manufacturer sets the final price that the retail customer receives, including distribution charges (i.e., through commissions) then it is their responsible for ensuring that the product provides fair value. If this is the case, then you as the distributor might not need to carry out a value assessment – although you will need to refer to the manufacturers assessment and review the information shared by the manufacturer to understand the benefits for the target market before distribution and ensure that you validate and test this.

