SPECIAL REPORT

Line of Duty

As the industry readies itself for the launch of the Financial Conduct Authority's new Consumer Duty principles, *Chartered Banker* examines why the new regulations are needed and the higher levels of protection and choice that they promise.

The Consumer Duty is a new set of rules developed by the Financial Conduct Authority (FCA). These are expected to be implemented by 30 April next year and the intention behind them is to create a higher standard of protection in retail markets and to reduce the level of harm to retail consumers.

The regulations, which will come into effect for new and existing products and services currently on sale on 31 July 2023, have been described as a watershed moment. According to the watchdog, the new rules will improve how firms serve consumers by requiring them to act to deliver better outcomes.

Sheldon Mills, Executive Director, Consumers and Competition, FCA, says: "The current economic climate means it's more important than ever that consumers are able to make good financial decisions. The FS industry needs to give people the support and information they require and put their customers first. The Consumer Duty will lead to a major shift in FS and will promote competition and growth based on high standards. As the Duty raises the bar for the firms we regulate, it will prevent some harm from happening and will make it easier for us to act quickly and assertively when we spot new problems."

Eric Leenders, Managing Director, Personal Finance, UK Finance, says that the undertaking is a significant one. "Our members aren't underestimating what's required," he continues. "The new rules are about customer understanding and customer support – so helping consumers through their journey with regard to their product. And I think that many of our members would say that they absolutely subscribe to that. They buy into it and have probably been on that trajectory for some time – but the FCA is formalising this with a clear structure. And in that regard, I think many of our members are very sanguine."

Leenders points out, however, that the devil is in the detail. "Larger firms will have hundreds of existing and back-book products that they will need to rework within a deadline. That's a huge amount of work. And the plan for that process needs to be presented to two boards by October. So, there is a significant amount of activity. And if you think about any change programme, firms will need to consider the legalities as well as retraining and repurposing staff. Then there is IT support – which is potentially quite fundamental – third-party relationships as well as internal procedures and comms changes, training, scripting etc. You have to write to consumers to advise them if there are changes. And on top of that, there is an awful lot of collateral that will potentially need to be reworked."

Making choices for better outcomes

Steve Pateman, Chairman, Chartered Banker Institute, believes that the requirements that are being introduced are, in principle, sensible and have a good purpose.

"The challenge," he says, "is that it compounds the responsibilities that sit with banks in the context of how people manage their lives and finances and the choices they make.

"There has clearly been some poor behaviour and outcomes in high-cost lending that merits attention. But the question of whether a second charge mortgage is a better option than maintaining high-cost credit, where the principal is never repaid, should be one on which the customer makes an informed choice, based on available products – not one where the outcome is prescribed by regulation. On the one hand, they are putting their home at risk, but on the other they are probably improving their longer-term outcomes as the cost to serve the debt is less – and frankly their home is at risk of bankruptcy in any event.

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Pateman believes that regulation should be about balance. "What we need is both protection from unscrupulous lenders and choice for consumers. The rules are already somewhat prescriptive and thus reduce flexibility as well as choice for consumers, and that doesn't seem to be the right outcome.

"There is undoubtedly a place for well-managed sub-prime lending businesses. But making life too difficult for them will only lead to a return to doorstep back-street lending. None of us wants to see Fagin-like organisations preying on people and businesses whose vulnerability will be heightened by the economic challenges that we are currently facing." CB

The new Consumer Duty – what, why and when

The new Consumer Duty is being brought in to fundamentally improve how firms serve consumers. It will set higher and clearer standards of consumer protection across the FS sector and require them to put their customers' needs first.

The Duty is made up of an overarching principle and new rules that firms will have to follow. It will mean that consumers should receive communications they can understand, and have access to products and services that both meet their needs and offer fair value. They will also be offered the customer support they need, when they need it.

Clarity on expectations and firms focusing on what their customers need should hopefully lead to more flexibility for businesses to compete and innovate in the interests of consumers.

The Duty forms part of the FCA's transformation towards becoming a more assertive and data-led regulator. With firms assessing how they're meeting their customers' needs, the FCA will be able to quickly identify practices that don't deliver the right outcomes for consumers and take action before practices become entrenched as market norms.

The Duty will include requirements for firms to:

- End rip-off charges and fees
- Make it as easy to switch or cancel products as it was to take them out in the first place
- Provide helpful and accessible customer support, not making people wait so long for an answer that they give up
- Provide timely and clear information that people can understand about products and services so they can make good financial decisions, rather than burying key information in lengthy terms and conditions that few have the time to read
- Provide products and services that are right for their customers
- Focus on the real and diverse needs of their customers, including those in vulnerable circumstances, at every stage and in each interaction.

The FCA is giving firms 12 months to implement the new rules for all new and existing products and services that are currently on sale. The rules will be extended to closed-book products 12 months later, to give companies more time to bring these older products, that are no longer on sale, up to the new standards.