

1 March 2023

Dear CEO/Director,

Implementing the Consumer Duty in Credit Unions

The Consumer Duty is a significant shift in our expectations of firms. It introduces a more outcomes-focused approach to consumer protection and sets higher expectations for the standard of care that firms give customers.

We are sending this letter to all Credit Unions to help them implement and embed the Duty effectively. This letter sets out:

- A reminder of the implementation timeline, key elements of the Duty and how it applies to Credit Unions
- Our expectations for how Credit Unions should embed the Duty, including how to evidence the outcomes members are getting
- Feedback from our recent review of firms' implementation plans
- Our approach to supervising the Duty and planned next steps

We expect the Consumer Duty to be a top priority for all Credit Unions. We want good outcomes for members to be at the heart of your strategies and business objectives, and leaders have a key role to play here. Senior management and Boards should embed the interests of customers into the culture and purpose of your organisation.

Your timeline for introducing the Duty

In July 2022 we published final rules and guidance for firms, and set out the following timeline for firms to implement the Duty:

- By the end of October 2022 firms' Boards or management bodies should have agreed their plans for implementing the Duty.
- By the end of April 2023 manufacturers should have completed all reviews necessary to meet the outcome rules and shared necessary information with their distributors.
- The Duty comes into force on 31 July 2023 for new and existing products or services that are open to sale or renewal.
- On 31 July 2024 the Duty come into force for closed products or services.

It is for you to assess, through close reading of the new rules and guidance, what it may need to do or change to meet the higher standards set by the Duty.

By now, your Board (or equivalent management body) should have agreed your Consumer Duty implementation plan and be able to evidence to us (if we ask) that they have scrutinised and challenged the plan to ensure it is deliverable and robust enough to meet the new standards. Such plan need not yet include detail of all changes required, but it should provide the framework under which your firm is acting now to meet the deadline.

We expect you to consider the contents of this letter and take any necessary action to ensure that your firm meets the requirements and expectations we have set out. We also expect you to share the details of this letter with your fellow directors and Board (or relevant management body).

How the Duty applies to Credit Unions

It is important that Credit Unions understand how the Duty applies to them. The Duty applies to products and services offered to retail customers, and to all firms who determine or have a material influence over customer outcomes – not just those with a direct customer relationship.

Annex 1 of this letter provides more information about the scope of the Duty and how it applies to the Credit Union model.

Overview of the requirements of the Duty

The Finalised Guidance we published in July provides firms with a full explanation of the requirements of the Duty, including many helpful examples of good and poor practice.

The Duty requires firms to act to deliver good outcomes for retail customers. Firms must act in good faith towards customers, avoid causing them foreseeable harm, and enable and support them to pursue their financial objectives. Firms should consider the diverse needs of their customers – including those with characteristics of vulnerability (see chapters 4-5 of the Guidance).

The Duty also introduces new rules and guidance to ensure that:

- **Products and services** are designed to meet the needs, characteristics, and objectives of a specified target market (chapter 6)
- **Price and value:** Products and services provide fair value with a reasonable relationship between the price consumers pay and the benefit they receive (chapter 7)
- **Consumer understanding:** Firms communicate in way that supports consumer understanding and equips consumers to make effective, timely and properly informed decisions (chapter 8)
- **Consumer support:** Firms provide support that meets consumers' needs throughout the life of the product or service (chapter 9)

A key part of the Duty is that firms are able to define, monitor, evidence and stand behind the outcomes their customers are experiencing (chapter 10). This monitoring must enable firms to identify where customers, or groups of customers, are experiencing poor outcomes, and where this is the case firms must take appropriate action to rectify the situation.

The Duty does not have a retrospective effect and does not apply to past actions by firms. However, the Duty applies, on a forward-looking basis, to firms' ongoing work for existing customers (chapter 3).

Our expectations for how Credit Unions should embed the Duty

Whilst you should consider all elements of the Duty, this letter sets out some initial areas where particular focus is needed considering our Credit Unions portfolio strategy and the harms in the sector.

We expect the senior management at your Credit Union to carefully consider the contents of this letter and, in light of the issues it sets out, take any necessary steps to ensure that you will be compliant with the Duty on 31 July 2023 for new and existing products or services.

We've set out some more information on the key areas of focus and factors to take account of in adopting a reasonable and proportionate approach to implementation in Annex 2 to this letter.

Feedback from our review of implementation plans

On 25 January we [published feedback](#) for firms on the implementation plans we have reviewed. This feedback contains examples of good practice, and areas for improvement, which will be useful for all firms to review as they implement the Duty.

Many of the plans we reviewed showed that firms have understood and embraced the shift to focus on consumer outcomes, established extensive programmes of work to embed the Duty, and are engaging with the substantive requirements.

However, we did also identify plans that suggested some firms may be further behind in their thinking and planning for the Duty. This brings a risk that they may not be ready in time, or they may struggle to embed the Duty effectively throughout their business.

We have identified three key areas where firms should particularly focus their attention during the second half of the implementation period (to 31 July 2023):

- **Effective prioritisation:** We saw some plans where it was not clear what the basis was for prioritising some implementation work ahead of other aspects. Firms should make sure they are prioritising appropriately, focusing on reducing the risk of poor consumer outcomes and assessing where they are likely to be furthest away from the requirements of the Duty.
- **Embedding the substantive requirements:** We saw some plans that suggested firms may have considered the requirements superficially or are over-confident that their existing policies and processes will be adequate. We urge firms to carefully consider the substantive requirements of the Duty, so that when they are reviewing their products

and services, communications, and customer journeys, they identify and make the changes needed to meet the new standards.

- **Working with other firms:** To implement the Duty on time, many firms need to work and share information with other firms in the distribution chain. However, some firms may need to accelerate their work on this important aspect of implementation.

As they oversee the implementation of the Duty, firms' Boards and management bodies will want to particularly focus and provide challenge in the three areas above, and on the other issues highlighted in our feedback.

Our supervisory approach and next steps

The Consumer Duty is a cornerstone of our [three-year strategy](#), and a key element of our work to set and test higher standards between now and 2025. It is being prioritised at every level of the FCA, from the Board down, and it will drive our supervision strategies and prioritisation.

As part of this work, we are developing a strategy for Credit Unions to embed the Duty in our Supervision work and tackle key harms, as well as metrics to measure the impact of the Duty in the sector.

Firms of all sizes in the sector should be prepared to discuss the Consumer Duty with us and to provide us with information on the reviews and assessments they have conducted as part of the embedding process. These additional engagements will be carried out through a variety of means, likely to include bilateral engagement, continued close engagement with the trade bodies, and industry events.

We will continue our work to support firms' embedding activities in the run-up to the July 2023 implementation deadline. Our programme of communications on the Duty will continue, with further events and updates to our dedicated [webpages](#). We are working with an external research agency that will soon be sending a short survey to a sample of firms. This anonymised survey will help us understand the progress firms are making in implementing the Duty and will inform our ongoing communications to firms.

For more information:

- Read our **Finalised Guidance** [Finalised Guidance \(FG22/5\)](#)
- Consider our [feedback](#) on our **review of implementation plans**
- Visit our **Consumer Duty homepage** www.fca.org.uk/firms/consumer-duty where you will find additional information about the Consumer Duty, on-demand webinars and [podcasts](#), and the option to sign up for email updates
- If you have any questions, you can **email us** at firm.queries@fca.org.uk

Yours sincerely,

Roma Pearson
Director, Consumer Finance
Supervision, Policy & Competition – Consumers and Competition

Annex 1 – How the Duty applies to Credit Unions

The Duty applies to the regulated activities of all firms authorised under the Financial Services and Markets Act 2000 (FSMA) and relevant ancillary activities¹. Further information on what constitutes ancillary activity can be found below.

The Duty does not apply to unregulated business, including business that is exempt or excluded from regulation (unless it is a relevant ancillary activity). We are currently [consulting](#) on updating the rules to make this clearer for firms.

The Duty applies to products and services offered to retail customers. It applies to deposit-taking activities involving customers in line with the banking customer test in the [Banking Conduct of Business Sourcebook](#).

For consumer credit related activity, including the provision of personal loans, the Duty applies to all *regulated* credit-related activities. The Duty does not apply to exempt credit-related activities, for example, lending money under agreements that are exempt within the meaning of article 60B(3) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.

Individual firms' obligations under the Duty should be interpreted reasonably. What is reasonable will depend on the specific nature of the product, the characteristics of the retail customers, and the firm's role and ability to determine or materially influence retail customer outcomes.

For further explanation of the applicability of the Duty and other FCA rules for Credit Unions, we refer to [Credit Unions New Sourcebook 10.1.3G](#), specifically, to the high-level requirements.

Ancillary activities

The Duty will also apply to unregulated activities which are relevant ancillary activities. [Ancillary activity](#) in this context is an activity which is not a regulated activity, but which is either carried on in connection with a regulated activity or held out as being for the purposes of a regulated activity.

Whether an activity which is unregulated is carried on in connection with a regulated activity or is held out for the purposes of a regulated activity, will depend on the facts. It is likely that activities which are necessary for the completion of a regulated activity will be ancillary to that activity. For example, the design of a product or service, or on-going customer support services, are not themselves regulated activities, but they are necessary activities linked to regulated activities, so would likely be classed as 'ancillary'.

¹ The Duty will not apply to ancillary activities of a Credit Union where the only regulated activity these relate to is issuing electronic money. Nor will it apply to the provision of payment services by a Credit Union unless these are relevant ancillary activities. Certain wholesale activities are specifically excluded.

Annex 2 – Key considerations for Credit Unions

This letter should be considered alongside our other communications, such as 'Dear CEO' letters and Supervisory Strategy letters. It supplements the key messages in those communications with a focus on delivering good customer outcomes under the Duty.

[Our Portfolio Strategy letter for Credit Unions](#) from March 2022 outlined several key risks of harm that remain relevant when considering the implementation of the Duty.

Credit Unions will need to focus particular attention on the following issues:

1. Governance and oversight

Under the Duty, Credit Unions must act in good faith towards members, avoid causing them foreseeable harm, and enable and support them to pursue their financial objectives. To do this Credit Unions must have governance arrangements which ensure effective oversight and robust systems and controls. For example, we expect Credit Unions to implement risk management frameworks which prevent risks of harm to members going undetected.

As more Credit Unions move their services online, it's important that the risks of cyber threats and consumer scams are managed effectively. Credit Unions need to ensure that adequate systems and controls are in place to counter the risks of money laundering and financial crime. Our *Financial Crime Guide: A firm's guide to countering financial crime risks (FCG)* and *Financial Crime Thematic Reviews (FCTR)* outline the steps Credit Unions must take to defend against financial crime.

Credit Unions that rely on outsourcing arrangements will also need to monitor and oversee third parties to ensure the risk of foreseeable harm to members is effectively managed. CRED 4.3.25G states that a Credit Union should take reasonable care to supervise any outsourced activities and obtain sufficient information to be able to assess the impact of outsourcing on its systems and controls. For example, many Credit Unions rely upon third parties to provide critical IT services. Credit Unions should ensure their staff have the sufficient skills and resources to oversee and test the outsourced activities; identify, monitor, and mitigate against the risks arising; and properly manage an exit or transfer from an existing third-party provider.

2. Planning for operational and financial resilience

The financial and operational resilience of Credit Unions may be tested as more members get into financial difficulty and seek support. We expect you to anticipate and plan for this scenario so that you continue to provide support that meets customers' needs, in line with the Duty.

Our website provides examples ([financial crime](#), [building cyber resilience](#), [handling customer data](#)) of what firms should consider to help them put adequate controls in place. These controls should be reviewed at regular intervals to ensure they keep pace with the changing financial landscape and methods that criminals use to obtain information.

3. Products and services

[The Financial Services and Markets Bill](#) contains amendments to the Credit Unions Act 1979, which include an option for Credit Unions to offer hire purchase, conditional sale agreements, and insurance distribution services to their members. For these new products and services, the Duty will apply to all regulated activities.

Offering these new products could potentially present new risks to members, as well as benefits. Credit Unions must ensure new products are designed to meet the needs of consumers and deliver fair outcomes. For example, in offering new products and services Credit Unions should consider:

- Affordability – is the credit offered affordable for the consumer?
- Complexity - can the consumer understand how the product works and the benefits and costs involved?
- Information – does the consumer have sufficient information to understand the benefits and risks of a product and make informed decisions about it?

You may find it useful to consider the Dear CEO letters for other sectors, including [Motor Finance providers](#) and the distribution of [General Insurance](#) products and services.

For more information, please see chapter 6 of the Guidance about the products and services outcome.

4. The cost-of-living crisis

The rising cost-of-living is having significant effects on the budgets of UK consumers, putting pressure on their disposable incomes, and pushing more into financial difficulty. Inflation has been rising and this will be felt most acutely amongst the poorest households. According to our Financial Lives Survey, just over a quarter (27%) of the UK population have low financial resilience, a figure likely to increase over the coming months.

Credit Unions are likely to see greater demand for their services, from customers in more complex and challenging circumstances. We want Credit Unions to provide a level of support that meets their members' needs throughout their relationship. This means that members should be able to realise the benefits of the products and services they buy and are supported when they want to pursue their financial objectives, when they are in financial difficulty and when they want to complain.

For example, in the context of the current economic environment, where members are experiencing or anticipating financial difficulties, the consumer understanding outcome requires you to test, monitor and adapt communications to ensure they support customers' understanding and good outcomes.

Whilst our policy work on the Duty pre-dates the rising cost of living, the crisis underlines the importance of the standards and outcomes we expect under the Duty and provides

further opportunity for the sector to build public trust. Our [Dear CEO](#) letter on the cost of living outlines these points in greater detail, and you can find further information for firms in our [cost of living](#) key documents.

The Duty also builds on our work on vulnerability in recent years, including our [Guidance for firms on the fair treatment of vulnerable customers](#). The guidance requires Credit Unions to consider the diverse needs of their members – including those with characteristics of vulnerability – at every stage of the product or service lifecycle.

For more detail about the consumer support and consumer understanding outcome, please see chapter 8 and 9 of the Guidance we published in July.

5. Proportionality

The Duty consists of an outcome-based set of rules that are designed to be proportionate, scalable, and understandable for all firms. All firms have the same responsibility to act to deliver good outcomes for consumers, but clearly there will be significant differences in the capacity and capabilities of a sole trader firm on the one hand and a major bank on the other.

Credit Unions have a diverse set of business models and sizes; therefore, we expect there will be a range of different approaches to implementation. What is proportionate, in terms of approach, will differ across the sector.

We refer to the following paragraphs of the [non-handbook Guidance](#), which may help you decide on a proportionate approach:

- 7.18, which notes that the nature of a firms' assessments, and the data and insights used to inform those, will vary depending on the type of product or service, and the size and complexity of the firm.
- 8.7 and 8.41, which note that firms will have different capabilities for consumer testing depending on their size, resources, and activities, such that their approaches may vary.
- 9.5, which notes assessing outcomes applies based on what is reasonable, depending on the nature of the product, the characteristics of the customers, the role of the firm (including in a distribution chain).
- 11.19 and 11.32, which note that, whilst all firms will need to produce and regularly review Management Information on customer outcomes, this information should be appropriate to the nature, scale, and complexity of their business, considering the size of the firm, the products, and services it offers, and the customer base it serves.

A key question to ask is whether your firm is applying equivalent resources to supporting customers and delivering good outcomes for them, as to generating sales and revenue.