

'A PRACTICAL GUIDE FOR THE C-SUITE'



**The FCA Consumer
Duty Unwrapped**

**Raising the bar
for consumer
protection**



**Updated
with the FCA
final Consumer
Duty rules**

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“

In essence, we want to see firms putting themselves in their customers' shoes, asking themselves questions such as 'would I be happy to be treated in the way my firm treats its customers?', or 'would I recommend my firm's products and services to my friends and family? ”

A New Consumer Duty: Consultation Paper CP21/13 (Financial Conduct Authority, 2021)

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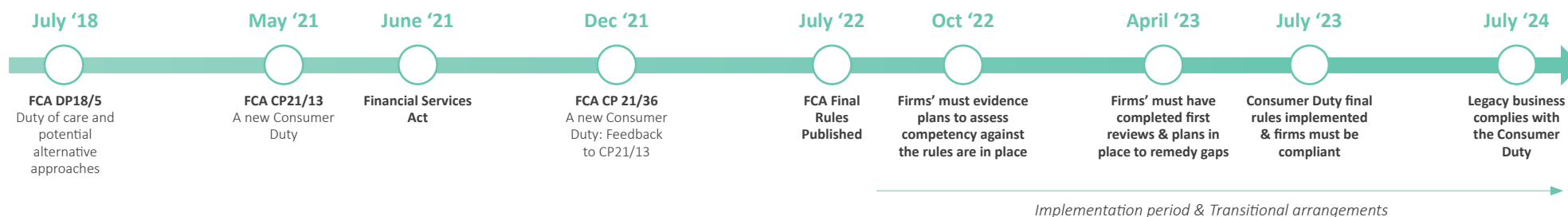
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EXECUTIVE SUMMARY

The Consumer Duty has been a long time coming, the fact that Treating Customers Fairly did not provide the desired outcomes the FCA expected and the financial crises of 2008/9 meant a different approach was required and indeed with the Retail Distribution Review, the FCA launch against a back ground for Behavioural Economics, meant that the FCA discussion paper **DP18/5 ‘A Duty of Care and potential alternative approaches’** and subsequent parliament debate on how to raise the protection for consumers during the passage of the **Financial Services Act 2021** meant that it was clear the FCA had to act and raise the bar in consumer protection.

The Chancellor of the Exchequer, Rishi Sunak, in his letter to the FCA dated March 23rd, 2021, affirmed the FCA’s role in consumer protection, promoting competition in financial services, and protecting and enhancing the integrity of the UK’s financial services. Accordingly, in July 2022, the Consumer Duty will be published, set out as rules and guidance that will take effect in April 2023.

Figure 1: The Consumer Duty timeline



This guide takes a view on the actions that firms operating in retail financial markets need to take to successfully implement the Consumer Duty. It maps aspects of the Consumer Duty to the five constituent parts of **Model Office’s RegTech framework**: your focus, your engagement, your promise, your systems and your people. The intention is that firms gain a holistic view of how each section of the Consumer Duty can be implemented across their business operations and services, as well as a greater understanding of the relevance of other applicable regulations.

Too many reports simply repeat the regulations. In contrast, this guide demonstrates how the Consumer Duty rules fit together like a jigsaw. It is imperative that firms think holistically and long term about how their operations, procedures, services and products will meet the requirements of the Consumer Duty.

It is clear from its **2022/23 business plan** that the FCA requires firms to consistently deliver **good outcomes** to consumers. High-quality Management Information (MI) will provide evidence of the degree to which firms perform and meet customers’ expectations.

The Consumer Duty is effectively a package of measures under one regulatory “umbrella”. The firms that stand the best possible chance of complying and competing will be those that employ RegTech to self-audit and benchmark their performance in real time against the new Consumer Duty and exploit data analytics, heat-mapped dashboards and action-tracked outputs.

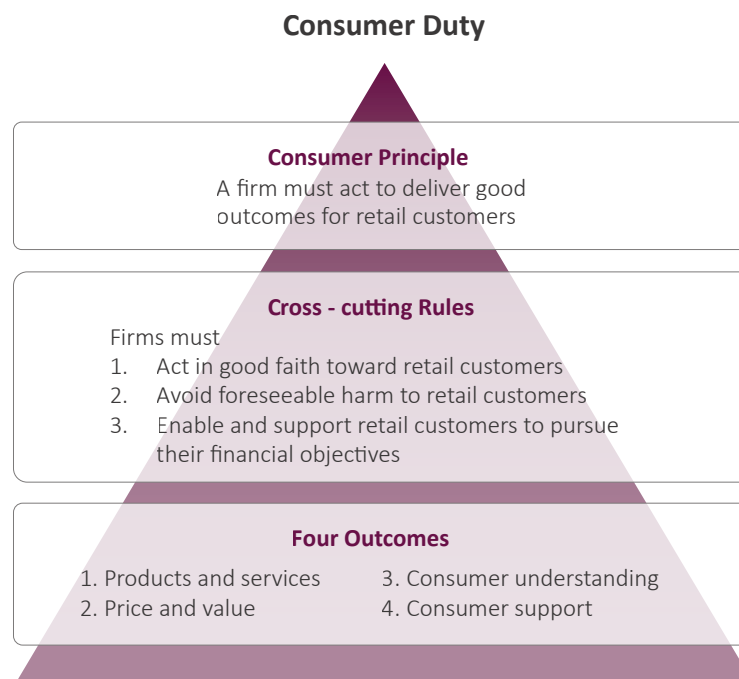
INTRODUCTION

The financial crises of 2008-09 saw a regulatory shake up within the UK financial services regulator. It launched two initiatives designed to improve consumer protection.

- The Retail Distribution Review aimed to bring transparency to how retail products are sold by taking a professional approach to service propositions, disclosing fees and raising the minimal level of qualifications required by advisers to offer financial advice
- **The Senior Manager and Certification Regime (SM&CR)** significantly enhanced firm and individual accountabilities and responsibilities when it comes to consumer protection and market detriment

The Consumer Duty is a third package of measures, focusing on customer care and the outcomes customers experience in relation to financial advice and the financial products they receive.

Figure 2: The FCA Consumer Duty



Implemented correctly, the Consumer Duty will enable the FCA to identify harmful practices quickly and intervene sooner. In their first publication **CP21-13**, the FCA outlines their proposals for:

- **a consumer principle**, which sets an overarching standard of conduct in the delivery of good outcomes for clients
- **cross-cutting rules**, which require firms to take reasonable steps to act in good faith, avoid foreseeable harm, and support clients to pursue their financial objectives. This means; Assessing the nature of product or service offered, Knowing characteristics of retail customers (vulnerable/financial capability) Knowing firms' role(s) in products/services including their distribution chain, Applying the same standards and capabilities to delivering good customer outcomes as they are to generating sales and revenue
- **four outcomes**, which support the consumer principle by setting expectations for a firm's behaviour in relation to products and services, price and value, customer service and communications

PS22/9 builds on responses to CP21/36 (which analysed responses received to CP 21/13) and sets out revised proposals for the new Consumer Duty, including proposed final handbook rules and guidance, and cost benefit analysis. It also communicated a U turn on the FCA's proposal to introduce a Private Right of Action and the requirement of all firms to take "reasonable steps", as well as clarifying "good" and "bad" practice. Issues remain, however.

- Despite the FCA short extension, the 12 month implementation period is still too short and presents a challenge when firms are still recovering from the effects of the Covid 19 pandemic. We suggest an implementation period of 12 months with a transitional period of a further 12 months. This will provide more support and time for firms to get their projects up and running and compliance strategies right
- The requirement for firms to apply the Consumer Duty to their products and services and price and value outcomes makes it necessary for terms and processes to be agreed with consumers before the Duty comes into effect. The relationship and inconsistencies between the Consumer Duty and other existing regulations, such as the **Product intervention and Product Governance sourcebook (PROD)** and the SM&CR, need to be better understood
- The move to outcomes-focused regulation is challenging when the new rules are still bound by inputs, systems and controls
- Proportionality to different firms' business and operating models and associated risks for reducing innovation, competitive differentiation and market entry needs more clarity and signposting
- The sharing of responsibility for delivering good customer outcomes among all firms in a distribution chain could mean that those firms further removed from direct customer contact could attempt to reduce risks by restricting terms and supply (think PROD). Related to this is ensuring consistent application across firms' services and products
- Key terminology within the Consumer Duty needs to be clearly defined. Phrases such as "good faith", "foreseeable harm" and "fair value" are highly subjective
- There is duplication of data-protection rules and tension between the **Equality Act 2010** and customer communications, data protection and e-privacy rules

The FCA Consumer Duty desired outcomes

- Elimination of consumer harm
- Firms to move from checklist compliance
- Constructive culture, competence and conduct within firms
- Senior management to own the new principle 12
- Consistently place client needs first
- Learn and adapt from real client outcomes
- Effective competition
- Products and services offer fair value
- Consumers supported to make effective choices

With the publication of the final rules, the good news is the FCA has taken into consideration the concerns of firms operating in retail financial markets. That said, we believe that the Consumer Duty and priority given to achieving good consumer outcomes will provide a more positive and realistic framework for firms to work within as they apply the regulations to their everyday activities.

The introduction of the requirement for a Consumer Duty champion, ideally a Non Executive Director (NED) to be fully responsible for the Consumer Duty implementation and compliance is a good one. This means firms should ensure one individual is fully accountable and a consumer duty 'culture carrier' within the business.

This, the SM&CR and the introduction of the new individual conduct rule 6 means Senior Managers and staff take full accountability and responsibility for the Consumer Duty across all products and services and client relationship management activities.

It is clear firm's now need to ensure they become more **emotionally intelligent (EQ)** in their client facing activities, and employ **Daniel Goldman's 5 EQ characteristics**:

- **self-awareness:** Firm's need to employ project management tools and professionals to ensure they identify and understand any subconscious biases such as status quo, group think and inertia that is detrimental to the design and implementation of their client service proposition and value chain against the consumer duty's four outcomes
- **self-regulation:** It is obvious that firms should now adopt technology to self-audit and benchmark where they are against the consumer duty to ensure they gain a gap analysis and evidence of what action and strategy needs to be taken to comply on an on-going basis
- **motivation:** As self-awareness, firms cannot afford to sit on hands when it comes to planning, implementing and ongoing compliance with this Duty. The firm's training and competence programme needs to ensure all staff have the required knowledge, skills and conduct standards against the consumer duty framework
- **empathy:** As the FCA have stipulated, firm's need to now evidence they are placing themselves in their client's shoes and empathise with client needs, objectives, vulnerabilities and ensure good outcomes
- **social skills:** Soft skills and robust fact-finding processes that add more 'colour' to the client risk, investment position and overall objectives is essential for advisers and their firms to evidence they have excellent understanding and evidence that advice is suitable and meets the four outcomes

The Consumer Duty plays well with governance, risk and compliance, and data analytics, in that Model Office-MO® RegTech software already uses an outcomes-focused framework. Digital diagnostics assess a firm's perception of its performance. Then, algorithms produce heat-mapped dashboards to disclose the firm's actual performance. Action-tracking monitors the firm's progress towards compliance with regulatory rules.

We believe that firms who use traditional checklist and tick-box compliance will struggle to implement the Consumer Duty and leave themselves exposed to compliance risks. If firms adopt a holistic approach and embed the Consumer Duty across all activities, then they will ensure that the Duty is ingrained in the firm's culture and staff competence (skills) and conduct (behaviour).

The rest of this guide demonstrates how Model Office's RegTech framework can help firms to implement the Consumer Duty across all activities.

APPLYING THE CONSUMER DUTY TO MODEL OFFICE'S REGTECH FRAMEWORK

Your focus



The regulatory key “Your focus” concentrates on how well firms are leading their businesses through major compliance strategies and regulatory risks. It also pays attention to the manner in which firms identify and manage fundamental risks and financial strategies.

Strategic planning

The Consumer Duty permeates through all the activities conducted by firms with retail clients. For this reason, firms need to take a holistic approach and assess how the Duty impacts on their business operations, services and products. This appraisal will likely involve an overhaul of the firm’s client value chain, business systems and controls, and risk management processes, as well as increased board oversight, improved communications and practising the Four Eyes Principle to sense-checking.

Suitability of advice

Alongside **PROD** the Consumer Duty requires firms to put in place and follow practices that make sure appropriate products and suitable advice are given to clients. Firms need to blend their service and product distribution with client segmentation based on client behaviours, alongside needs and **Environmental, Societal and Governance (ESG) sustainability goals**.

Vulnerable customers

Firms should ensure that they have identified and embraced vulnerable clients, including those with mental and physical needs, in their service proposition. Vulnerable consumers should receive outcomes from firms that are as good as those received by non-vulnerable consumers.

Governance, risk and compliance

Fusing data analytics with governance is essential to ensure that firms apply evidence-based practice and can track themes and trends across all business practices. It is therefore essential firms’ products and services systems and controls, research and due diligence and client engagement meets the new duty’s cross cutting rules for acting in good faith, avoiding foreseeable harm and enabling clients to pursue their financial objectives.

Board Report

This needs to include:

- the results of the monitoring that the firm has undertaken to assess whether products and services are delivering expected outcomes in line with the Duty, any evidence of poor outcomes, including whether any group of customers is receiving worse outcomes compared to another group, and an evaluation of the impact and the root cause
- an overview of the actions taken to address any risks or issues
- how the firm’s future business strategy is consistent with acting to deliver good outcomes under the Duty

Figure 3: Governance risk management

Align risk management with corporate objectives

Service, programme/project level, function level, leadership/strategic level

Align decision-making across senior managers and certificated staff

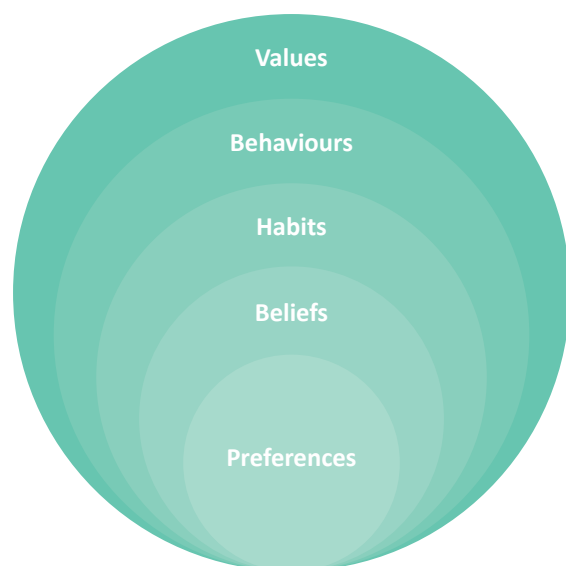
Make internal staff and external client communications clear and consistent

Culture, competence and conduct

As with the **SM&CR** firms need to ensure that all stakeholders (senior managers, advisers, ancillary staff) take full ownership of their accountabilities under the Consumer Duty. This means making sure that communications are disseminated quickly and clearly.

Discussions at board, committee and other meetings should be clear and recorded accurately. RegTech is able to identify any subconscious biases held by an individual so that misunderstandings can be eliminated and do not hinder successful application of the Consumer Duty. Firms must encourage a constructive culture that promotes a sense of duty among staff and fosters the attitudes, behaviours and skill sets required to comply with the Consumer Duty.

Figure 4: Drivers of organisational growth

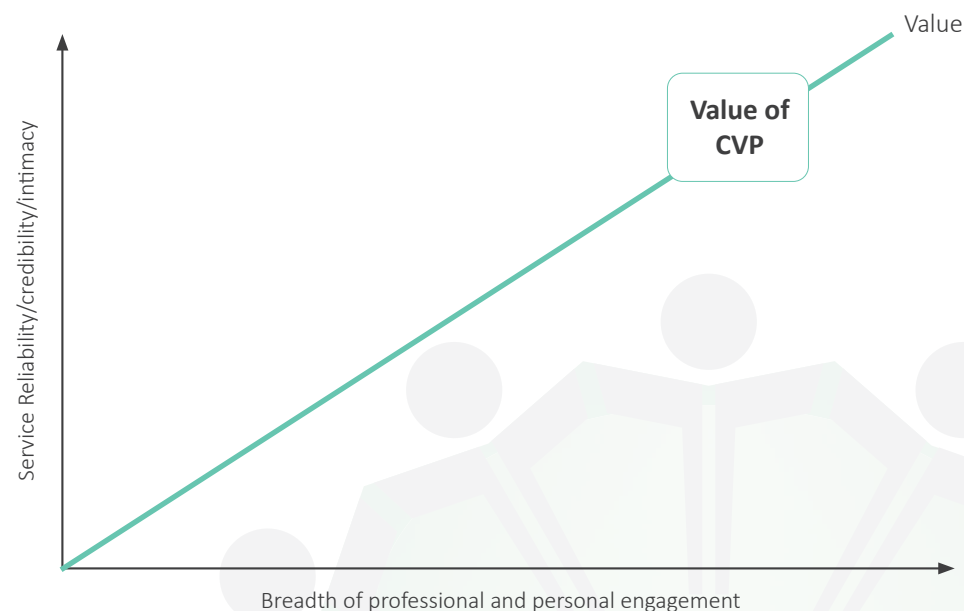


Your engagement



The Consumer Duty's requirement for firms to place consumers at the centre of their businesses means that firms need to ensure that their client communications, marketing plan and documentation support the customer journey. Designing and embedding a firm's client value proposition is essential.

Figure 5: Determining the firm's client value proposition



Culture, competence and conduct

Client engagement and communications Putting client needs first is essential to the successful implementation of the Consumer Duty. Firms must reassess all lines of engagement with their clients and align with **PROD** and **MiFID II** disclosure and **ESG sustainability requirements**. Any changes to the client journey as a result of the new Duty need to be designed and implemented. Firms should take proportionate steps to review, test and adapt communications, building on **principle 7 ‘clear, fair and not misleading’**. As one of the Consumer Duty outcomes stipulates, firms should also:

- ensure that communications are understandable; enable clients to evaluate options; show costs, risks and benefits of those options and show how those options relate to the clients’ needs and objectives
- consider the purpose and context for all communications
- assess reasonably foreseeable information needs or vulnerabilities of target clients
- review and test any scope for harm if the information was misunderstood or overlooked by the client.

The FCA key questions for firms

Culture and Governance

- Does the firm’s purpose (whether publicly articulated or not) align with its obligations under the Duty? How is it embedded and understood throughout the organisation?
- How does the organisation’s culture support the delivery of good outcomes for customers?
- How does the organisation ensure that individuals throughout the organisation – including those in control and support functions – understand their role in delivering the Duty?
- Are staff empowered and feel safe to challenge and raise issues where they feel the firm might not be acting to deliver good outcomes for customers? Are those challenges listened to, and where necessary, acted on?
- Is the Duty being considered in all relevant discussions such as strategy and remuneration? Are customers outcomes a key lens for Risk and Internal Audit?
- How is the firm ensuring that its remuneration and incentive structures drive good outcomes for customers?

Customer outcomes

- Is the organisation prioritising acting to deliver good outcomes for customers? Are there any areas of concern?
- How is the external environment changing, and how will that impact on the organisation’s ability to deliver good outcomes for customers?
- Has the firm identified the key risks to its ability to deliver good outcomes to customers and put appropriate mitigants in place?
- How does the firm define good outcomes (over the short, medium and long term) for customers using its products and services?
- What data does the firm have about its customers and how they use its products? Are there any gaps in the data? What steps is the firm taking to address them?
- What outcomes are customers getting? Are they getting good outcomes which align with their reasonable expectations?
- Are certain groups of consumers getting different outcomes, and if so why? What’s driving any adverse outcomes?
- What actions is the firm taking to improve outcomes? (Who’s accountable for this work, what will improvement look like and when will it happen?)



¹ Model Office benchmark report (2021)

Consumer support outcome

Firms need to continually monitor and support customers to ensure the service and product supports are adequate to meet ongoing needs, as our below table illustrates, the firm's client segmentation strategy is crucial in ensuring each client segment has right product and services to meet their on-going needs and requirements, including vulnerable clients. This means firms should;

- monitor the support provided and gain feedback and gain management information that a distribution channel is working or not
- be flexible with customers' needs particularly vulnerable, protected customers (equality act 2010) and client changing needs
- communicate support available clearly at all times
- ensure any support is effective
- operational resilience is in place and tested in case any support services or products are compromised

Financial promotions

The FCA is planning to strengthen financial promotion rules for high-risk investments, due to concerns that everyday investors do not properly understand the risks involved i.e. Consumer Duty outcome 3 consumer understanding.

The FCA published a call for input (CFI) on consumer investments in April 2021 seeking views on whether more types of investment classification, investments should be subject to marketing restrictions and if tougher rules on financial promotions are needed across: High risk classification, segmentation of high-risk investment, firm responsibilities also with a high focus on **behaviourally informed disclosure requirements**

Client surveys, research and feedback

Testing client experiences – through processes such as experience audits, focus groups and mystery shopping – will be very useful to gain valuable MI on the client outcomes that firms' engagement is generating.

Client Agreements and contracts

Clarity on 'who owns the client' is now crucial particularly with addressing accountability for client outcomes across the distribution chain. Firms should address agency across the distribution chain and make it clear exactly what the client can expect across products and services offered. Existing contracts need to factor in the fair value cross cutting rule:

- products or services do not exploit consumer lack of knowledge and/or behavioural biases to enable unfair prices to be charged
- complex pricing and terms do not make it harder for customers to assess value
- there is and remains a reasonable relationship between the price customers pay and the benefits of the product or service
- consideration on whether significant changes to the benefits of a product or service should affect the price: for example, if a firm reduces the benefits available on a product, it should consider if there should be an accompanying reduction in charges for the product

Client segmentation

Although often mentioned, client segmentation is still (and worryingly) not uniformly applied by most firms¹. Yet, if applied correctly, client segmentation can ensure that firms are not exploiting consumers' behavioural biases and that products and services are suitable for consumers' needs and represent fair value. Consumer inertia and any barriers to entry can also be addressed.

Figure 6: Client segmentation strategy

Segment	Sub Segment	Investment Solution	Platform Selection	Advisory Service	Cost £	
					Initial	PA
Young Accumulators	Job starters	Savings acc, LISA	Simple low cost	Light Touch, Tech, Sustainability		
	Young Execs	ISA	DFM	Standard, Tech, Sustainability		
Runway to Retirement	Employed	DC, Auto Enrolment	CIP/Model Portfolio Discretionary	Standard, Advanced Sustainability		
	Self -Employed	PPP	CIP	Light/Standard Sustainability		
Retirement income	Low/No income	CRP	Invest/Annuity	Standard, Sustainability		
	High Income	Growth	Invest/Withdrawal	Cashflow/Bespoke, Sustainability		
Vulnerable	Mental Physical	Protected	Invest/withdrawal	Tailored Sustainability		

Building and maintaining trust

Intensifying consumer engagement by addressing the above points will mean:

- improved matching of products and services to meet client needs
- a reduced need to seek compensation or redress
- service time and cost savings
- reduced psychological client stress and likelihood of harm
- clients will be clear on all services and the firm will gain client-informed consent
- enhanced client confidence and participation in current and new products and services.

Your promise



The Consumer Duty means that firms must assess how robust their service proposition is in relation to service and product suitability and appropriateness.

Service propositions

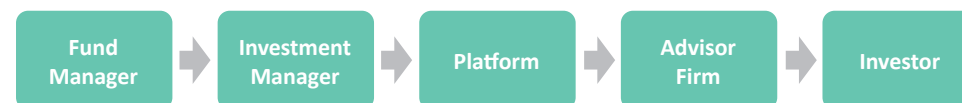
Aligning the centralised investment, portfolio management and retirement service propositions to match client needs has always been crucial. This means ensuring that the costs, charges, service features and benefits, attitude to risk and capacity for loss have all been factored in and meet the Consumer Duty's cross-cutting rules and four outcomes.

Firms should also factor in client buying behaviours to ensure that consumers' sensitivities to costs and fees, and propensities to purchase certain services and products, are understood. Client services should also eliminate any unnecessary barriers, such as excessive time, unreasonable inconvenience, or monetary costs.

Assessing your distribution chain

The Consumer Duty applies to all firms in the distribution chain that influence design, target market or performance of products (whether or not there is a direct client relationship) and clear contractual documentation is required.

Figure 7: Distribution chain example



Products

As with the firm's services, all products offered should be fit for purpose, designed to meet client needs and target those clients whose needs they are designed to meet. As with PROD, there needs to be an apportionment of obligations across the distribution chain in terms of responsibility for the consumer outcome. This means firms need to prove that products are distributed correctly within their target market, hence why segmentation is essential, and need to evidence the services and products each segment receives and why.

This means manufacturers and distributors need to take all reasonable steps to ensure the right products meet the right clients and incorporate the European Securities and Markets Authority (ESMA) product design and distribution requirements as Figure 8.

Figure 8: ESMA product design and distribution strategy



Research and due diligence (R&DD)

It is essential that firms now **re-read and re-apply The FCA advice suitability paper TR16/1**. This paper ensures that firms take an evidence-based approach, avoid “retro-fitting” and apply constructive challenge to the R&DD process so that biases, such as status quo, are managed. This will help firms to ensure that their service proposition is valid and aligned with client needs and objectives.

Monitoring and analysis

More regulatory supervision on customer care brings an expectation that the ongoing activities of firms will meet the four outcomes of the Consumer Duty. Active and effective monitoring and analysis will mean that quality MI is generated, providing evidence that services and products meet client needs and that positive outcomes are attained.

Recommendations

As with the “Your focus” key, aligning appropriate products with advice suitability is imperative. Service and product recommendations correspond with the four outcomes at all times, with a view to meeting the new Consumer Duty principle.

Reporting and reviews

Ongoing reviews are a regulatory necessity and, again, it is important to align other regulatory obligations, such as suitability, with the Consumer Duty. Determining whether the Duty’s four outcomes are met will be crucial across all client file reviews and will benchmark the firm’s service standards against the Consumer Duty. **Model Office’s MO[®]nitro compliance policy document and client file review software**, will support this area and ensure compliance with the Consumer Duty’s four outcomes.

Fees and charges

Figure 10, provides an example of wealth management and advice industry charging structures. This shows that, despite the regulations and **FCA principles 6 and 7**, and that the current rules stipulate the above examples require working examples in monetary terms, charges can confuse clients. The Consumer Duty’s four outcomes are designed to ensure that firms now design their service propositions and associated charges to meet client desired and agreed outcomes. This means advisers need to ensure their fact finding, attitude to risk and capacity for loss assessment match the client’s ongoing requirements and a blended product range with suitable charging structures are offered that clearly evidence they are designed to meet agreed client outcomes and are reviewed regularly to ensure they do.

Regarding the Consumer Duty requirement for fair value, firms should apply a client loyalty value (CLV) to their service promise. This is the lifetime value weighted by a loyalty rate of, for example, 100% (never leave) or 50% (50/50 chance of leaving), thus providing the long-term value (LTV) of the client. So, the metric $CLV = \text{loyalty rate} \times \text{LTV}$ means that the firm is not only basing its business on profits and income but also factors in the LTV, which is aligned with client trust and clients’ comfort with and understanding of the services and products provided. This, and clear cost disclosure, should then ensure that the firm’s services align with the Consumer Duty outcome “price and value”.

The price and value outcome

The final rules make it clear firms need to conduct continuous value assessments across what do clients gain, value most from product and services. There are challenges here such as;

- intricate interrelationship with existing regs such as **PROD 3 & 4, collective investment schemes sourcebook (COLL)** so **COBS 19 Independent Governance Committees (IGCs)** and Governance Advisory Arrangements (GAAs) assessments can provide product fair value strategy
- control or lack off within distribution chain
- duplication of assessments lead to inefficiencies

Whilst the FCA have made it clear that sensitive information need not be shared, it is clear that they demand firms challenge themselves and their clients in assessing the value of their services and products services and products. It is worth revisiting a number for previous regulatory papers here as the below table shows which provide good outcome examples on different aspects of products and services suitability in meeting client’s ongoing needs.

Figure 9: Regulatory adviser charging strategy resources

FG12/16: Assessing suitability: replacement business and centralised investment propositions	<ul style="list-style-type: none"> Firms should ensure robust systems and controls when the recommending replacement of an existing investment, assessing that the costs are in the client's best interests A segmented client bank may result in different charging structures, service levels and benefits and clients should be informed in a way that is clear, fair, and not misleading.
TR14/21: Retail Investment advice: Adviser charging and services	<ul style="list-style-type: none"> Firms need to ensure they disclose charges in cash terms Hourly rates should provide approximate timescales Avoid using wide ranges in generic disclosure of costs and charges Consumer research evidenced costs should be disclosed in readable font size, services and costs displayed together, use bullets, diagrams, bold text and smaller documents
TR16/1: Assessing suitability: Research and due diligence of products and services	<ul style="list-style-type: none"> Ensure challenge is in place throughout the firm's product and services governance and risk assessment due diligence Identify key biases such as status quo bias and their effect on research and due diligence of product and services Identify and rectify any conflicts of interest between clients interests and the firm Ensure robust systems and controls are in place particularly around client file reviews and recommendation assessments
Supervision review report: Acquiring clients from other firms	<ul style="list-style-type: none"> Client's suitability needs should be adequately and consistently evidenced Impact on commercial benefits on clients should be factored in Consistent approach is needed when considering and mitigating potential disadvantages

Figure 10: Example of industry charging and examples in monetary terms

Service	Maximum annual charge		
Essentials	N/A		
Primary	0.75%		
Enhanced	1.08%		
Premier	1.08%		

Example of the cost of investment advice and an ongoing investment service over time. Based on an initial investment of £100,000 the provision of an Enhanced ongoing investment service and a rebalance of £10,000 of assets in Year 3. Example assumes a 4% net growth in the value of the investment portfolio year on year.

Service	Year 1	Year2	Year3
Initial investment advice	£3,000	£0	£0
Advice on existing investments	£0	£0	£3,300
Ongoing investment service	£1,080	£1,123	£1,168
Total charges	£4,080	£1,123	£4,468

Example of payments by instalments
Your adviser recommends that you invest £500 per month into a regular premium investment product:

Total initial charge	£750
Total monthly premium	£500
Monthly payment for advice	£62.50
Length of repayment period	12 months
Amount left for monthly investment	£437.50

In relation to the outcome “price and value”, it is also clear that the new consumer duty will mean that:

- firms need to proactively evidence they are providing fair value and continuously assess the benefits consumers can expect against the price paid
- the full value chain needs to be considered, as well as the costs and benefits to clients across all stages
- firms should not just set the same service/product price for all their clients; segmentation should ensure that each client segment’s needs and behaviours are factored in and that fair value is always offered
- where different prices are charged across different client groups, the prices should be fit for purpose for an average consumer in each group
- firms need to consider any non-financial costs incurred by the client (e.g. data acquisition)
- senior management are accountable for the outcomes of price and value assessments
- firms should withdraw services and products if the costs are found to be unreasonable compared with the benefits clients receive
- firms need to define what fair value actually means by engaging their client views, experiences, and outcomes, which in turn will support determining the right service and product price, cost and features plus break any status quo bias

What this means is firms need to change the way they are fact finding; asking meaningful soft questions, showcasing empathy, collating hard and soft facts on client needs, objectives, attitudes to risks and sustainability preferences that correlate on an on-going basis with the client’s on-going requirements. Evidence that the results showcase good outcomes is then essential which points to the need for RegTech’s data analytics and management information abilities.

Your systems



The Consumer Duty means increased lines of defence across key technologies, systems and controls, and regulatory support strategies.

Resilience

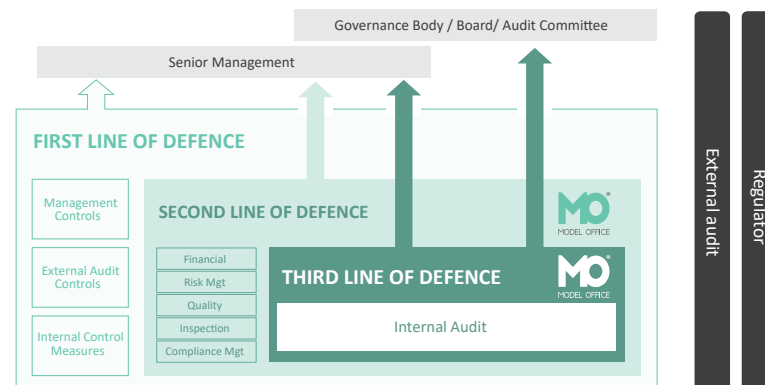
When it comes to systems and the Consumer Duty, every firm needs to ensure that they have the three resilience risks addressed:

- **Operational:** Important business operations, such as practice management, customer relationship management (CRM), accounting and telephone systems, need to be robust. Impact tolerances should be in place to assess intolerable harm, harm or inconvenience levels and recovery. Mapping and scenario testing, communications with staff and the governance and self-assessment document should incorporate consumer duty outcomes
- **Cyber:** Staff training, UK General Data Protection Regulation (GDPR) backup, breach and incident response strategy all need to be aligned. The quality of data needs to be excellent to ensure that consumer understanding is clear across all services and products
- **Financial:** Firms should make sure that they have all financial key performance indicators monitored at all times and that capital adequacy meets regulations, thus ensuring that the Consumer Duty outputs are delivered.

Practice management

The business management platform should ensure that all activities, workflows, tasks, diaries, life cycling, income reconciliation and regulatory reports meet **systems and controls (SYSC)** requirements and empower client reports and communications via client portals, for example.

Figure 11: Lines of defence



Systems and controls

Lines of defence will be essential in order to ensure that firms have adequately implemented the Consumer Duty across all business operations. When it comes to outsourcing, oversight and due diligence, much is already covered by SYSC 8, so we would want to see this recognised by the FCA. RegTech will ensure that a firm has the right relational controls when it comes to its SYSC and outsourcing; for example:

- ownership of relationship
- clear and concise contract and service-level agreements
- identified and agreed key performance and risk indicators
- service and regular review processes

Ensuring that the Duty also aligns with relevant SYSC regulations, such as **SYSC 5 (employee skills) 6 (compliance) 7 (risk control) 9 (record keeping) 10 (Conflicts of interest)** also makes sense for obvious reasons. RegTech will help benchmark a firm's performance against both the Consumer Duty and the SYSC regulations.

Data and Management Information

The data supplied by a firm's IT systems should be able to demonstrate at least annually that the firm is acting to deliver good outcomes for its clients which are consistent with the Consumer Duty. Data should reveal:

- whether products and services are delivering the four outcomes
- new and emerging risks to good outcomes
- evidence of clients who are not gaining good outcomes and the root cause
- evidence of vulnerable clients who are not achieving good outcomes and the remedial actions taken
- whether the firm's future strategy is consistent with it acting to deliver good outcomes under the Consumer Duty

Firm data to be assessed

- **Business persistence:** analysis of customer retention records – e.g. claims and cancellation rates and details of why customers leave. This may flag where poor treatment is contributing to high customer turnover
- **Distribution of products/pricing and fees and charges:** review of whether certain groups of customers are more likely to buy certain products, incur particular fees and charges, or appear to be receiving outcomes that are not as good as other groups of customers
- **Behavioural insights:** customer interactions and drop off rates; use of different communications channels including digital; consumer testing of user interfaces and design such as websites and apps, and the results of such testing, e.g. whether consumers changed their behaviour as a result of the design. This would include consumer testing of any gamification elements in the user interface and design of apps. This may flag where firms need to improve policies, processes and systems (e.g. where there are barriers to consumer engagement or understanding)
- **Training and competence records:** analysis of records of staff training, including remedial actions where staff knowledge or actions were found to be below expectations
- **File reviews:** reviewing customer files and monitoring calls to check for errors and assess if customers received good outcomes (this is particularly useful for sales processes)
- **Customer feedback:** using formal and informal feedback from customers to identify trends and areas for improvement (e.g. complaints and comments made to the firm but also comments and complaints on social media)
- **Numbers of complaints:** trends in numbers of complaints involving poor customer outcomes throughout the customer-firm relationship-Complaints root cause analysis: investigating complaints fully to understand the cause of customer complaints, not just dealing with the symptoms
- **Results of the regular testing and monitoring required under the outcome rules:** many of the four outcomes rules include requirements for firms to monitor and review over time. The results of these reviews, together with any action taken would be relevant for consideration of whether the outcomes are being followed.
- **Feedback from other parties:** in the distribution chain such as manufacturers and distributors sharing information about the way in which products are sold, and the extent to which actual sales matched the target market
- **Compliance reports:** review compliance reports to check if standards are being met in terms of good outcomes for consumers
- **Researching or testing customer experiences:** through processes such as mystery shopping, auditing customer journeys, focus groups and deep dives, or working with consumer organisations to gain insight into the needs and experiences of consumers
- **Allowing staff to feed back honestly:** when they think products or services, or the processes used to deliver them, could be improved
- **Reviewing:** whether policies and processes are effective in delivering good outcomes for customers
- **Drawing on external sources of data about consumer outcomes:** the **FCA Financial Lives survey**, for example, contains granular data about the financial lives of different groups

Compliance

Complaints data will need to be collected and analysed. RegTech data analytics can quickly assess key root cause analysis trends and themes for firms to address. Indeed, RegTech can act as a third line of defence for the compliance team and ensure that all three elements of the Consumer Duty are consistently complied with.

Your people



Successful implementation and ongoing compliance with the Consumer Duty rely on suitably trained staff who possess the right skills and behaviours.

SM&CR

This regime alone should ensure that firms have the right people, with the right skills and responsibilities, in the right roles. The Senior Manager Functions, Prescribed Responsibilities, Certification roles and Conduct rules means high accountability to ensure their business focuses on good consumer outcomes, clarity on where responsibilities lie and continuously monitor, test, and adapt processes and evidence this.

Indeed, it will be a great asset for firms in ensuring that the Consumer Duty is correctly implemented and embedded and staff are fully aware of how the cross-cutting rules and four outcomes impact on their roles. The SM&CR requirement for evidence-based practice will be priceless for firms seeking evidence of their continued compliance with the Consumer Duty.

Recruitment

As with regulation [SYSC 5](#) and [TC 2.1](#) the Consumer Duty makes explicit the importance of firms recruiting the right people with the appropriate qualifications. The appointment of the Consumer Duty champion who holds full accountability and responsibility needs careful consideration.

Reward and recognition

Firms that reward their staff through social and financial benefits create a “virtuous circle” in ensuring that staff are incentivised correctly and place the clients’ needs first.

Learning and development

These are central to staff understanding all aspects of the Consumer Duty and its implementation. It will be essential to ensure that staff have the necessary skills to evaluate the effectiveness of the firm’s processes and policies in terms of delivering good customer outcomes.

Performance management

Encouraging staff to share their opinions when they think processes can be improved is essential. Aligning performance and good client outcomes will be central to ensuring that staff are managed and encouraged in the right way.

Professionalism

For too long the industry has focused on transactional issues, such as qualifications, at the expense of what emotional intelligence and soft skills can bring to ensure that clients are content with a firm’s ongoing services. Firms should investigate the reasons why a client is willing to make certain trade-offs or has particular goals.

The only way this can be done is by carrying out a fact-finding exercise – asking clients meaningful questions – thus, adding more context to a client’s decision-making, appetite for risk and capacity for loss. Fact-finding also provides evidence that clients are being matched to the most appropriate service for their needs and is useful in terms of checking adherence to the Consumer Duty principle, the cross-cutting rules and the four outcomes.

The Consumer Duty Four Outcomes Audit Activity

1. Products and Services Outcome

Your Firm

Regulator outcomes stance	<ul style="list-style-type: none"> Understood, applied and embedded across products and services? Conducted thematic reviews to measure across products and services? 	✓
Governance framework	<ul style="list-style-type: none"> Evidence for board report & systems and controls and your research and due diligence? Statements of responsibilities, Fit & proper assessments, conduct rule training, staff declarations Is your Consumer Duty champion / NED in position? 	✓
Product governance	<ul style="list-style-type: none"> PROD applied across the distribution chain? Have you segmented your clients by behaviours & demographics including a vulnerability assessment? 	✓
Filtering criteria	<ul style="list-style-type: none"> Documented your investment philosophy? Clear and client-centered approach to research & due diligence? CIP and CRP are reviewed and updated? 	✓
Method of delivery	<ul style="list-style-type: none"> Client file reviews focus on recommendation suitability? Evidence clients understand what they have? Client informed consent is evidenced? 	✓
Implementation / integration	<ul style="list-style-type: none"> Is all the above documented, data stored and available? Can you implement it in advice/ back-office / audit software? Ongoing monitoring processes in place? 	✓

2. Price and Value Outcome

Your Firm

Regulator outcomes stance	<ul style="list-style-type: none"> Understood, applied and embedded across ongoing products and services? Conducted thematic reviews to measure across products and services? 	✓
Governance framework	<ul style="list-style-type: none"> Evidence for board report & systems and controls and your research and due diligence? Statements of responsibilities, Fit & proper assessments, conduct rule training, staff declarations? Is your Consumer Duty champion / NED in position ? Evidenced in annual suitability processes and reports? 	✓
Product governance	<ul style="list-style-type: none"> Have you identified relevant financial instruments that are suitable? Feedback from distribution chain 3rd parties? 	✓
Filtering criteria	<ul style="list-style-type: none"> Documented value assessment across all client segments? Behavioural insights across client sensitivities to price and propensities to purchase certain products? 	✓
Method of delivery	<ul style="list-style-type: none"> Client surveys, focus groups, deep dives, feedback, mystery shopping, audit customer journeys? Staff feedback and challenge encouraged? Assessment of compliant data and number trends? 	✓
Implementation / integration	<ul style="list-style-type: none"> Is all the above documented, data stored and available? Can you implement it in advice/ back-office / audit software? Ongoing monitoring processes in place? 	✓

3. Consumer Understanding Outcome

Your Firm

Regulator outcomes stance	<ul style="list-style-type: none"> Understood, applied and embedded across ongoing products and services? Conducted thematic reviews to measure across products and services? 	✓
Governance framework	<ul style="list-style-type: none"> Evidence for board report & systems and controls and your research and due diligence? Statements of responsibilities, Fit & proper assessments, conduct rule training, staff declarations? Evidence client on-boarding is re-assessed ? All relevant disclosures are assessed against the duty requirements ? Is your Consumer Duty champion / NED in position? 	✓
Product governance	<ul style="list-style-type: none"> Have you assessed all product information sent to clients ? FinProm is re-assessed and applied to all client communications ? Feedback from distribution chain 3rd parties ? 	✓
Filtering criteria	<ul style="list-style-type: none"> Documented value assessment across all client segments? Behavioural insights across client sensitivities to price and propensities to purchase certain products? 	✓
Method of delivery	<ul style="list-style-type: none"> Client testing for understanding via meeting assessments, surveys, feedback? Suitability reports are assessed against FCA directives for clarity of information and pension transfer/ insistent client/execution only processes? 	✓
Implementation / integration	<ul style="list-style-type: none"> Is all the above documented, data stored and available? Can you implement it in advice/ back-office / audit software? Ongoing monitoring processes in place? 	✓

4. Consumer Support Outcome

Your Firm

Regulator outcomes stance	<ul style="list-style-type: none"> Understood, applied and embedded across ongoing products and services support? 	✓
Governance framework	<ul style="list-style-type: none"> Evidence for board report & systems and controls and your research and due diligence? Statements of responsibilities, Fit & proper assessments, conduct rule training, staff declarations? Evidence support processes have been built around FCA requirements for principles 6, 7 and 12? Is your Consumer Duty champion / NED in position? 	✓
Product governance	<ul style="list-style-type: none"> Have you assessed products and services meet client support expectations? Are client communications clear, fair and not misleading? 	✓
Filtering criteria	<ul style="list-style-type: none"> Complaints processes meet FCA requirements and dispute handling is effective and efficient ? Client segmentation strategies also document on-going support strategy? 	✓
Method of delivery	<ul style="list-style-type: none"> Client feedback is regularly assessed to understand their experience? Client segmentation is applied and includes support strategies? 	✓
Implementation / integration	<ul style="list-style-type: none"> Is all the above documented, data stored and available? Can you implement it in advice/ back-office / audit software? Ongoing monitoring processes in place? 	✓

SUMMARY

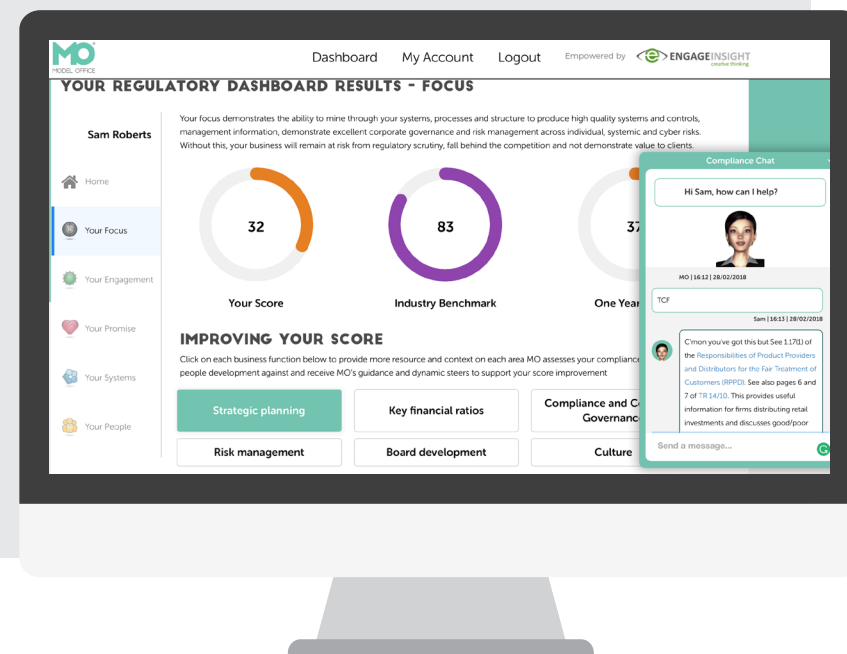
The Consumer Duty is a comprehensive package of measures that all firms need to take seriously and start actioning now. There is only a brief period between publication of the rules and their implementation. Project planning, mapping current rules and regulations to the new rules and employing RegTech will be important in giving firms confidence that they have the right tools and strategies to comply and compete.

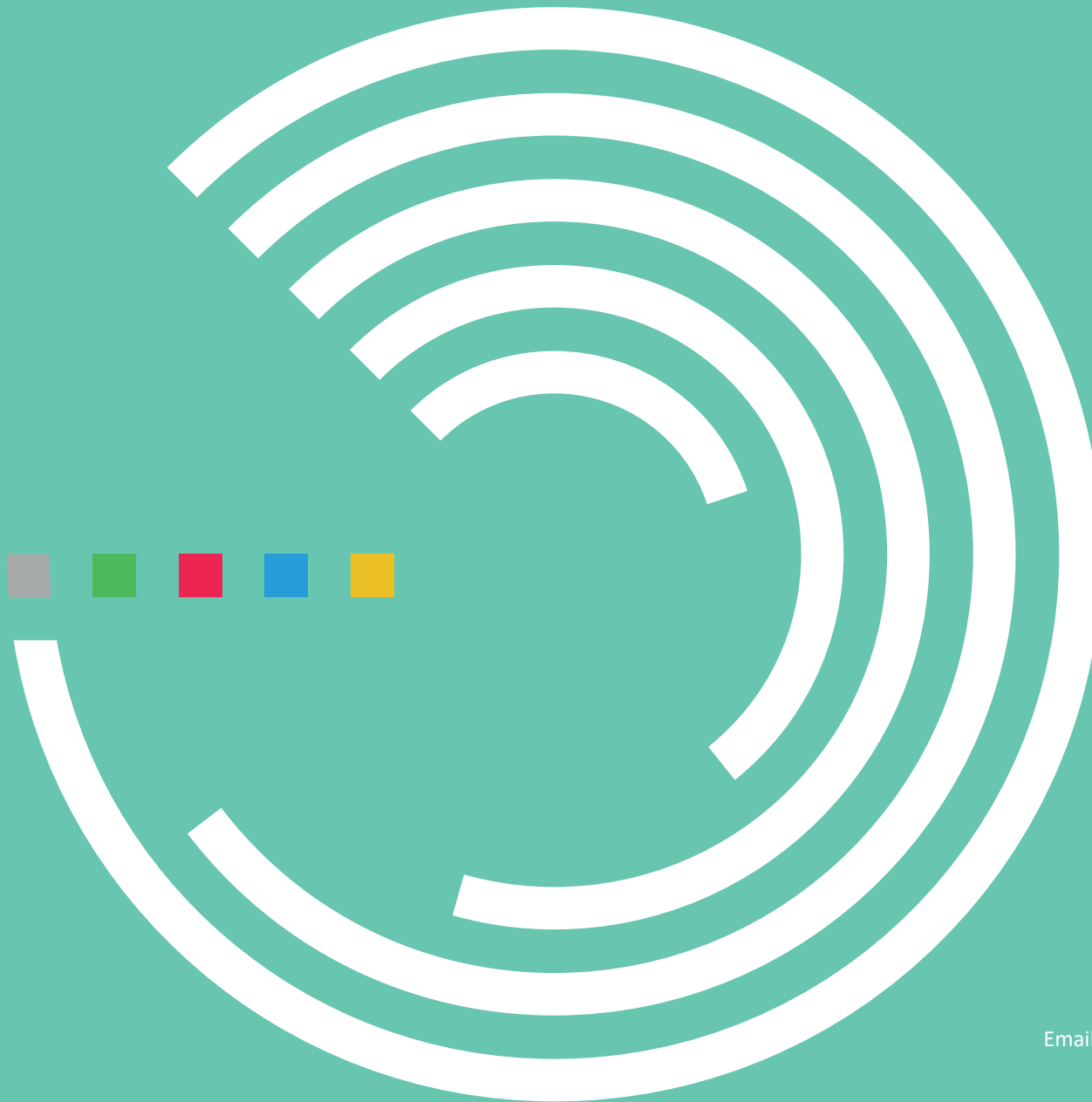
Model Office-MO® RegTech uses **behavioural science** to provide firms with a gamified Governance, Risk and Compliance (GRC) hub, where the team gain all relevant information on regulations digitally in real time and in one place and can self-audit and benchmark their daily activities against where they believe they sit and MO®s algorithms will then provide **heat mapped dashboards, alerts, action tracking and data analytics gap analysis** on where firms actually are and support actions to ensure compliance teams they are confident and have the evidence that they comply. This in turn provides real time data and MI which streamlines the audit processes and can save business, audit and **regulatory levies costs** and compliance audit time.

To learn more on how Model Office-MO® can help,
contact us on info@model-office.co.uk

What the FCA Consumer Duty outcomes focus requires:

- If you have not got the data it did not happen and if you do have the data it better have happened
- Focus on results rather than processes
- Stop inappropriate firms entering market
- Act earlier and more assertively
- Use full range of supervisory and enforcement tools as appropriate e.g. targeted info requests S166 for smaller firms as well as larger firms





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