

FCA Call for Input - The Consumer Duty

About the Independent Investment Management Initiative

The Independent Investment Management Initiative (IIMI) is a member-led industry think tank. We represent specialist, entrepreneurial investment boutiques that are focused on and aligned with the interests of their investors.

Founded in 2010, the IIMI counts amongst its 53 members some of the world's leading specialist investment firms, overseeing c. \$500bn in client assets and representing c. 3,000 members of staff. Over the past two decades, as the financial services industry has been dominated by global giants, an increasing appreciation of a traditional 'client-centric' approach has enabled entrepreneurial to emerge as a growing competitive force. The IIMI offers these firms an expert voice in the debate over best practice and the future of financial regulation. We aim to build a better future for smaller and independent investment firms that prioritise specialism over scale in delivering the best results to clients. Now, more than ever, entrepreneurial boutiques play a key role in the growth of innovative and competitive investment solutions, to the benefit of clients, consumers and society at large.

Executive Summary

As highlighted in the Call for Input, there have been concerns around the length and complexity of rules and guidance, as well as the availability and quality of data required for firms to fulfil their regulatory duties. These two points (around which we have structured our responses) have been particularly challenging for smaller, more resource constrained firms. As such, we are delighted to respond to this Call for Input and to support the FCA with evolving this important regulation on behalf of our members.

Simplification of the rules and guidance

We acknowledge the potential benefits of principles-based regulation. However, for smaller firms, the time and effort required to translate regulatory maxims into actionable requirements is a hidden cost. Smaller firms rarely have the means to assemble a project team to review requirements, put together a project plan, and devise a program of work to monitor the delivery of outcomes. The level of proportionality to be applied is also unclear in the guidance. Below are some recommendations as to how to simplify and clarify the rules without compromising the intended outcomes of the Duty.

1. Consider replacing the FCA's financial promotion rules / guidance with a single requirement to ensure that financial promotions / communications are clear, fair and not misleading and appropriate for the audience to which they are communicated. Consider removal of requirements for standard disclaimers.
2. Apply more specific guidance around what firms must do to act in the best interests of retail customers. The PRIN guidance used to explain how to deliver the cross-cutting obligations (act to deliver good outcomes for retail customers by acting in good faith etc.) is detailed and complex yet does not always provide answers as to *how* a firm should act.

3. Include examples of The Consumer Duty (TCD) best practice from smaller firms. Currently, good practice examples often highlight the efforts of large, well-resourced firms which are not relatable for smaller firms.
4. Repeal complex / conflicting costs and charges disclosure requirements under MiFID II and allow all firms to disclose costs relating to UCITS Funds on the UCITS basis.
5. Remove duplication between AoV and Consumer Duty (Price and Value). Clarify requirements for overseas funds in respect of Price and Value.
6. Simplify / standardise AoV. We elaborate on this point below.¹
7. Simplify disclosure rules under SDR for firms not using an SDR label to a general requirement to ensure that references to sustainable characteristics are clear, fair and not misleading.
8. Release specific guidance on the expectations of Authorised Corporate Directors (ACDs) to comply with TCD.
9. Release specific guidance on the steps a firm should take when they do not hold retail permissions and only market a fund to professional investors, but a portion of their fund(s) contains a) retail customers b) customers that are not identifiable. We elaborate on this point below²
10. We would welcome the addition of practical toolkits, as to what is expected of firms, as well as realistic expectations for smaller firms with relatable good practice examples.

¹Point 6: simplify/ standardise AoV.?

Perhaps the best starting position would be to clearly define the purpose of the public summary. Below is a list of questions to consider:

- What information do retail customers actually want or need, and where is the gap?
- How many investors when presented with a Prospectus, KIID, Factsheet, and Assessment of Value will read all of these documents (what is most effective); and
- Of those who do read those documents, how many would find the information presented meaningful?

The simplest option for an assessment of value could have the following elements:

	1 Year	3 Years (annualised)	5 Years (annualised)
What is the fund's outperformance target?			
What did it cost? Fund Total Expenses (OCF + Performance Fee + Transaction Costs)			
What did you get? Fund Returns (Net)			
How does that compare? Alpha vs Benchmark			
How did we do? Fund Manager's Commentary on Value Delivered (max 200 words).			

² Point 9: What to do in the absence of retail permissions.

The guidance has not been deemed proportionate for many smaller firms firstly because some don't hold retail permissions and so don't deal directly with retail customers, and secondly because many outsource the fund management and administration to an ACD and ManCO (some also outsource distribution). However such firms are unable to disapply any of the rules and so they have appointed Consumer Duty champions and produced annual reports when they don't actually have retail customers.

Addressing challenges around the quantity and quality of data

The entire industry is having problems with the flow of information from distributors to manufacturers. Many firms are making multiple bespoke requests to distributors for data on clients, with varying responses and quality of data. Some firms have had to develop their own in-house infrastructure or buy software to acquire, monitor and manage data on clients. This has not only been onerous and costly for those smaller firms but has, despite best efforts, resulted in data gaps. One of the key questions that has arisen from this is how a manufacturer can evidence outcomes and fair value when the data is not provided, and relatedly what the FCA expects in light of this. Below are some recommendations to tackle data challenges.

1. We recommend that all parties utilise an industry standardised template that captures all of the data required to comply with the Duty. FCA recognition would be helpful. This would be helpful to address the challenges around the nature, scope and method of delivery of the information requested from distributors on consumer outcomes.
2. Mandate, by means of FCA rules, that required data is provided by platforms/distributors to Manufacturers and provide specific guidance on what asset managers should do when distributors fail to provide the relevant data (for the purposed of managing retail customer relationships but also in terms of board reporting for TCD).
3. Support the development of infrastructure to digitise and analyse MI on the Duty, especially for small firms without (or limited) in-house systems development capability. One interesting option would be to leverage some of the work done AI and the distributed ledger technology (DLT) with respect to fund tokenisation.

We understand that the Consumer Duty rules, and guidance will evolve. As a group representing entrepreneurial investment boutiques which are focused on and aligned with the interests of their investors, IIMI is eager to support the FCA by providing practitioner inputs and recommendations for constructive change.