

Newsflash

Consumer Duty Dear CEO letter

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With just under three months until the implementation deadline for closed products and services, the Financial Conduct Authority's (FCA's) latest Dear CEO letter sets out five priority areas to focus firm's final efforts.

Overview

The Dear CEO letter sets out five priority areas for firms to consider before the 31 July 2024 deadline along with action prompts for firms relating to each of the areas. These five areas are based on the FCA's supervisory insights and feedback they have received. While the themes are not unique to closed products and services, they are likely to be more significant areas of consideration for closed business.

The five priority areas are:

1. gaps in firms' customer data
2. fair value
3. treatment of consumers with characteristics of vulnerability
4. gone-away or disengaged customers
5. vested contractual rights.

The letter comments on how life insurance providers are particularly affected given that they are more likely to hold large books of closed products. This will entail significant effort in terms of product reviews, fair value assessments and communication testing ahead of the deadline. Specific features of closed business such as data gaps, gone-aways and vulnerable customers mean this preparatory work could prove more challenging.

This newsflash summarises the five priority areas and associated action prompts set out in the Dear CEO letter.

1. Gaps in firms' customer data

Closed business is likely to involve older products which brings additional challenges including a higher risk that data is incomplete, owing to complex legacy systems, back book purchases and advancements in data collection over time.

The letter states that firms must address any gaps identified within their customer data and be able to evidence that they have taken steps to provide good outcomes for their customers.

It focuses on how firms should seek to improve both the core data and that which flows into their monitoring and specifically encourages firms to consider whether data gaps give rise to potential harm for groups of customers. Firms should have a plan in place to update any required systems and ensure that there is a way to monitor customer outcomes in the long term.

The action prompts for firms under this priority focus on identifying any material data gaps and exploring different ways to cleanse and update existing data. Where data is not available, firms must ensure that they are still able to deliver good outcomes for its customers.

2. Fair value

Firms should assess and be able to demonstrate that they are providing fair value to customers for closed products and services on a forward-looking basis (from 31 July 2024). This means that firms' closed products and services need to be compliant with the Price and Value outcome.

The action prompts encourage firms to consider consistency between the fair value framework applied to open and closed products and services. It also prompts firms to consider if the price paid by customers is reasonable, relative to potential benefits provided by the product or service.

3. Treatment of consumers with characteristics of vulnerability

Customers with characteristics of vulnerability should be considered within all products and services however, the letter highlights that this might be a particular issue for closed products and services. These challenges relate to gaps in data, the age and complexity of products, inflexible legacy systems, and the fact that customers' needs and circumstances will change over time.

Firms should already be meeting the expectations set out in [the FCA's Guidance on the fair treatment of vulnerable customers](#), but they should consider if any additional support is required within closed products and services.

The action prompts firms to specifically consider if any enhanced action, monitoring, or support is required for vulnerable customers of closed products compared to open products.

4. Gone-away or disengaged consumers

This could be a particular issue for closed products and services given that firms might not have up to date contact details for customers or customers may not want to engage in the firm's communications. This priority states that firms should identify any disengaged or gone-away customers of closed products and services and take appropriate action.

Firms may have difficulties in determining a course of action to take for these customers. However, the action prompts ask firms to consider if they have followed all reasonable avenues to contact unresponsive consumers, for example, by using third-party tracing. Firms are also prompted to assess the effectiveness of their efforts to re-contact customers and consider if they have processes in place to determine a course of action when it cannot successfully contact a customer, or when a gone-away customer contacts the firm.

5. Vested contractual rights

When assessing potential harm for customers in a closed product or service, firms are not expected to give up any vested contractual rights. They may do so if they wish, however they could also consider other actions that do not require any contractual changes. Depending on the circumstances, firms could provide greater flexibility on how customers engage with a product, help a customer switch to a new product, or provide increased customer support.

The one action prompt for this priority asks firms to consider what alternative action they could take to deliver good outcomes for customers where they have identified foreseeable harm.

Next steps

Firms will be working hard to implement the Duty for closed books and services prior to the 31 July 2024 deadline. The five priority areas in the FCA's latest Dear CEO letter provide a good benchmark to assess firms' progress and identify any potential gaps that require further attention ahead of the deadline.

The FCA also expect to publish their Thematic Review findings on firms' product governance arrangements in the coming months. This should also help firms to comply with the Duty for closed products and services.

How Hymans Robertson can support you

In their letter, the FCA have stated that they expect firms to consider independent assurance on their implementation of the Duty. Hymans Robertson have a wealth of insurance experts with a strong background in governance, regulation, and managing conduct risk. For a conversation on how we can support you with your implementation of the Duty, please [get in touch](#) with your usual Hymans Robertson contact or one of the authors.

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