

REDEFINING CORPORATE RESILIENCE

WHEN OPERATIONAL RESILIENCE AND CONSUMER DUTY COLLIDE



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INTRODUCTION

Operational resilience and customer duty are pivotal focuses within regulatory and strategic landscapes. While often complementary, they can occasionally conflict and generate some localised pain points, posing challenges for resource allocation and strategic planning.

From the diverging customer harm definition to service prioritisation and customer complaint handling, both sets of regulations require a nuanced approach to end-to-end organisational and product/service design as well as customer servicing.

Coupled with the Senior Managers and Certification Regime, executives and board directors face conflicting demands requiring a detailed approach to compliance and a holistic approach to risk management.

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The strategic implications of integrating operational resilience, consumer duty, and considering potential implications under Senior Managers and Certification Regime (SMCR) requirements demand a holistic and nuanced approach from the C-suite.

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A multi-faceted approach is required to maintain compliance, while delivering substantial benefits to customers and strengthening operational resilience.

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Aevitium LTD has experienced ex-regulators and industry experts capable of helping firms to navigate the regulatory landscape in a way that is proportionate to the size, nature and scale of the individual firm and reflects any jurisdictional differences.

ABOUT AEVITIUM LTD

EXPERT SERVICES

Our holistic and simple solutions are tailored to meet the challenges that businesses encounter in today's dynamic environment. With Aevitium LTD, you are choosing a partner dedicated to your success, offering precision, professionalism and expertise, and a steadfast commitment to excellence in every facet of risk and compliance management.

VISION

Aevitium LTD sees a future where it stands as trailblazer in simplifying the complexity of risk and compliance, offering holistic, innovative but simple solutions that redefine the risk and compliance management landscape.

MISSION

Aevitium LTD is passionately dedicated to empowering your business to excel in its core competencies by delivering bespoke risk and compliance consulting and advisory services.

Learn More: <https://www.aevitium.com>



REGULATORY LANDSCAPE

The UK's Prudential Regulation Authority (PRA) and Financial Conduct Authority (FCA) set operational resilience expectations in March 2021, highlighting the financial sector's ability to resist and recover from shocks. This programme followed significant disruptions within UK firms, highlighting the necessity for defined standards and testing mechanisms.

To meet the demands of regulators, businesses were required to develop an operational resilience structure that included governance, policy, and processes. Key requirements included identifying and mapping critical business services, performing dependency analysis, establishing impact tolerances, conducting scenario testing, implementing corrective measures, and ensuring effective communication plans.

In July 2022, the FCA introduced the Consumer Duty, setting higher standards of care for retail financial markets. This initiative amended existing principles and imposed a more rigorous standard of conduct, emphasising good outcomes for retail customers.

Firms must proactively detect and reduce probable harm to customers, which includes all parts of product and service design, marketing, sales, and support.



MARCH 2021

The PRA and FCA publish expectations for operational resilience.



LATE 2021

The PRA and FCA publish final expectations for operational resilience.



JULY 2022

The FCA introduces the Consumer Duty initiative.



LATE 2022

The FCA publishes final guidance on cross-cutting rules and four outcomes to align firm conduct with consumer interests.



2022

Implementation begins for both regulations



MARCH 2025

Compliance deadline for operational resilience



AREAS OF OVERLAPS

Both operational resilience regulations and the Consumer Duty framework impose significant responsibilities on financial institutions to safeguard consumers' interests and ensure operational stability. We have identified potential areas of overlap between these regulatory initiatives and advocates for an integrated approach when it comes to implementation and compliance.



CUSTOMER IMPACT ASSESSMENT

Overlap exists in identifying and prioritising critical business services directly affecting consumers, emphasising the need for comprehensive risk assessment.



COMMUNICATION AND TRANSPARENCY

Overlapping requirements stress the importance of jargon-free communication plans to mitigate potential harm to consumers.



RISK MANAGEMENT

Overlap occurs in identifying and mitigating risks directly affecting consumers, ensuring proactive measures are in place to safeguard their interests.



REPORTING AND REGULATORY NOTIFICATIONS

Overlapping requirements underscore the importance of comprehensive reporting mechanisms to monitor potential harm and regulatory compliance. This includes regulatory notifications in the event of disruptions.



PAIN POINTS

Operational resilience and customer duty are pivotal focuses within regulatory and strategic landscapes. While often complementary, they can occasionally conflict and generate some localised pain points, posing challenges for resource allocation and strategic planning.

For instance, operational resilience regulations prioritise resource allocation to ensure uninterrupted critical services. This includes robust business continuity planning, risk assessment, incident response, infrastructure resilience, data protection, and third-party risk management.

Contrarily, consumer duty shifts focus towards customer-centric activities like improved communication, fair treatment, product suitability, complaint handling, consumer education, and responsible product development.

Striking a balance between operational resilience and consumer duty requirements poses challenges, particularly regarding incident reporting's level of detail. Financial institutions must face these conflicting demands to ensure compliance while safeguarding customer interests.

DEFINITION OF CUSTOMER HARM

- 1 A firm seeking to avoid causing intolerable harm to customers (thereby satisfying the Operational Resilience requirements) risks causing foreseeable harm to customers (thereby breaching the Consumer Duty requirements)

SERVICE PRIORITISATION

- 2 Services might get cut due to the costs of maintaining the higher level of resilience now required which causes foreseeable harm by reducing consumer choice (closure of branches, withdrawal of access to cash, etc.)

SPEED OF SERVICE RESTORATION

- 3 Operational resilience emphasises swift service restoration to maintain market stability, while consumer duty advocates for balancing restoration speed with customer well-being to prevent adverse impacts.

EXCLUSION CONSIDERATIONS

- 4 Regulatory demands for operational resilience might render certain services uneconomic, leading to potential exclusion of consumers from essential services, especially those considered vulnerable.

INCIDENT REPORTING

- 5 Operational resilience requires detailed technical incident reporting to analyse systemic risks, while consumer duty emphasises customer-centric information disclosure to address individual impacts and ensure fair treatment.



STRATEGIC IMPLICATIONS

With the possible ramifications under Senior Managers and Certification Regime (SMCR) requirements, as well as the strategic implications of merging operational resilience and consumer duty, the C-suite must adopt a thorough and smart strategy.

By increasing responsibility and including strategic risk management, executive leaders can resolve any conflicts and align their businesses with the evolving regulatory landscape. They also ought to rethink their corporate culture, distribute resources wisely, ensure comprehensive training and communication, and put in place robust reporting and incident management protocols.

ENHANCED ACCOUNTABILITY AND DECISION-MAKING

Senior managers are personally accountable under SMCR for both consumer duty and operational resilience. To get around this, senior leaders need to reassess decision-making procedures, define precise roles and responsibilities—including those that overlap between regimes and SMCR—and guarantee strong risk assessment and mitigation plans.

STRATEGIC RISK MANAGEMENT INTEGRATION

Navigating contradictions between operational resilience and consumer duty requires integrated risk management aligned with strategic objectives. SMCR mandates holistic risk management frameworks to anticipate and mitigate complex risks affecting both operational integrity and customer outcomes.

TRAINING, COMPETENCE, AND COMMUNICATION

Comprehensive training programs are necessary to ensure personnel understand regulatory requirements, including operational resilience and consumer duty nuances. Effective communication is key to aligning organisational efforts with regulatory demands and fostering a culture of compliance and customer-centricity.

GOVERNANCE, OVERSIGHT, AND CULTURE

Robust governance and oversight structures are essential for addressing complexities in operational resilience and consumer duty. Leaders must foster a culture of accountability, integrity, and customer focus, embedding these values to ensure compliance with regulatory expectations.

RESOURCE ALLOCATION AND PRIORITISATION

Balancing resource allocation between operational resilience and consumer duty is crucial. Senior managers must strategically plan investments in technologies and systems to enhance operational efficiency, data security, and customer experience without compromising resilience or duty to consumers.



RESOLUTION STRATEGIES

Risk Management

Integrate risk management solutions that meet the complexities of operational resilience and consumer responsibility: 1) Unified risk assessment; 2) Scenario-based risk simulations; and 3) Cross-functional risk committees.

Regulatory Requirements

Promote clarity in regulatory expectations in order to facilitate compliance with prudential requirements while protecting consumers, including reducing the possibility of exclusion.

Accountability Framework

Design accountability frameworks, including decision-making processes, to clearly delineate responsibilities for operational resilience and consumer duty among senior leaders.

Cultural Transformation

Foster a culture of accountability, integrity, and customer focus and outcome throughout the organisation.

Strategic Resource Allocation

Invest strategically in technologies and systems that enhance operational efficiency, data security, and customer experience.

Customer Trust

Develop strategies for building and maintaining trust amidst operational disruptions, with a strong focus on proactive and transparent communication.

Stakeholder Collaboration

Foster collaboration between regulatory bodies, financial institutions, trade bodies, and consumer advocacy groups to address potential conflicts.



HOW CAN WE HELP?

As regulators throughout the world keep implementing new programmes, many businesses find it difficult to comprehend and allocate the resources needed to comply. Lack of understanding causes firms to frequently find it difficult to spot potentially dangerous abnormalities, which makes the tension between predictable damage, disruption, and unbearable damage worse. With our team of seasoned former regulators and industry experts, Aevitium can assist businesses in navigating the regulatory environment in a manner that is appropriate for the size, kind, and scope of each company as well as any jurisdictional variations.

CULTURAL & GOVERNANCE ASSESSMENT

- 1 We offer tailored solutions to assess and enhance cultural and governance frameworks to meet regulatory standards and foster organisational excellence.

RISK TRANSFORMATION

- 2 We offer comprehensive Risk Transformation solutions tailored to enhance cultural and governance frameworks as well as risk capabilities while mitigating compliance risks and driving organisational resilience and positive customer outcome.

REGULATORY COMPLIANCE

- 3 We help firms to understand new regulatory initiatives, the regulators expectations and develop a proportionate approach that ensures regulatory compliance. Our specialist team brings you the skills and knowledge to identify and understand local or regional differences while ensuring that frameworks are robust and effective and comply with local regulatory expectations.

BOARD TRAINING AND EDUCATION

- 4 Aevitium can provide Boards with the skills and experience needed to provide constructive challenge to senior management, inform decisions that have consequences for both Operational Resilience and Consumer Duty (and other regulations) enhancing your oversight capabilities, while ensuring you can act as a partner to your executive team.

THE AUTHORS



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Jimi Hinchliffe has over 25 years of experience in operational risk and regulation at the UK regulator, as operational risk policy SME, manager of the Basel 2 Implementation team and supervisor of GSIFI banks, then at the GSIFI MUFG, including as Head of EMEA Regulatory Affairs. Since 2016 Jimi has been a consultant specialising in operational risk, resilience and regulatory affairs.



ANDREW SHEEN

Andrew Sheen is best known for the eight years he spent at the UK regulator, firstly in the FSA and subsequently at the PRA, and for his membership of the Basel Committee for Banking Supervisors Operational Risk Working Group. Since retiring Andrew devotes his time to providing consultancy services and training in non-financial risk.



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Julien Haye is Managing Director at Aevitium LTD Risk and Compliance Consultancy. With over 24 years of experience in the financial services industry, Julien specialises in transforming risk and compliance functions into strategic enablers through practical insights and problem-solving expertise.



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