Financial Conduct Authority

Feedback Statement FS16/10

Smarter Consumer Communications

October 2016

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Annexes

In this Feedback Statement, we report on the main issues arising from Discussion Paper 15-05.

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Abbreviations used in this paper

ABI	Association of British Insurers
AFM	Authorised Fund Manager
AMC	Annual Management Charge
APR	Annual Percentage Rate
APFA	Association of Professional Financial Advisors
CFI	Call for Input
COBS	Conduct of Business Sourcebook
CoCos	Contingent Convertibles Notes
COLL	Collective Investment Schemes Sourcebook
CP	Consultation Paper
DMD	Distance Marketing Directive
DP	Discussion Paper
DWP	Department for Work and Pensions
EU	European Union
FAMR	Financial Advice Market Review
FCA	Financial Conduct Authority
FSA	Financial Services Authority
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act

ICOBS	Insurance: Conduct of Business Sourcebook
IA	Investment Association
IDD	Initial Disclosure Document
IPID	Insurance Product Information Document
KFD	Key Features Document
KFI	Key Features Illustration
KID	Key Information Document
KIID	Key Investor Information Document
MCOB	Mortgages and Home Finance: Conduct of Business Sourcebook
MiFID II	Market in Financial Instrument Directive (recast)
OCF	Ongoing Charge Figure
OP	Occasional Paper
PRIIPs	Packaged Retail and Insurance-based Investment Products
SID	Supplementary Information Document
SORP	Statement of Recommended Practice
TER	Total Expense Ratio
UCITS	Undertakings for Collective Investment in Transferable Securities

1. Overview

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Introduction

The benefit of effective communications

1.1 Effective communications can help improve consumer choice and decision-making: first, by providing information about products and services in a manner that is both engaging and comprehensible; and second, by providing information at the appropriate time and through appropriate channels. Information alone is not sufficient to empower consumers to make informed choices as different people engage with information in different ways.

Lessons learnt from our experience

1.2 Historically, the FCA (and previously the Financial Services Authority (FSA)) has required firms that we regulate to provide consumers with information in the form of regulatory disclosures. Firms have also provided consumers with information that they consider relevant to their products or services as part of their wider communication. This information has typically been provided in paper-based format with little consideration of whether consumers actually read, process and ultimately incorporate that information into their decision-making process. When disclosure gets too much, it could lead to 'information overload'.

Consumers need better practice and a more flexible approach around communications

1.3 While this approach was designed to help consumers, it may not meet today's consumer information needs nor help them understand the products or services that they have or plan to buy.

1.4 Consumers need: better practice and a more flexible approach around communications; simple, clear information and explanations; and to be able to trust firms. Moreover consumers, who choose to use digital channels, need communications that are suitable for today's digitalised context.

Technology has transformed consumers' engagement with financial services

1.5 Technology has transformed how consumers research, choose, buy and use financial products. For example, consumers now often apply for financial services online.

1.6 We believe consumer engagement can best be achieved through rethinking: not just what it is communicated, but also how it is communicated with consumers. Consumers are engaging with new communication technologies, leading to fast-changing habits and preferences. A predominately paper-based disclosure may not meet today's consumer information needs.

Smarter Consumer Communications is about a change of mindset

1.7 We launched our Smarter Consumer Communications initiative to bring about a change in the way information is both communicated and delivered to consumers. To deliver this, it requires a fundamental change in mindset about how to communicate effectively with consumers. The pace of innovation means that both firms and the regulators need to be able to adapt quickly to the fast-changing needs and expectations of consumers.

Our vision: what do we want to achieve as a regulator?

1.8 Our challenge is to ensure that regulation can keep pace with changes in the market and supports innovation. Our overall ambition is to create an environment and regulatory framework where firms' communications encourage and enable informed consumer engagement and making decisions regarding financial products and services.

Barriers to innovation in Digital and Mobile Solutions

1.9 In March 2016, we published a Feedback Statement (FS) on our Call for Input (CFI) on Regulatory Barriers to Innovation in Digital and Mobile Solutions.[1] The FS outlined six themes where respondents suggested there was a regulatory barrier to their attempts to innovate with digital or mobile solutions. One of the themes identified was how our rules on communication apply to digital and mobile solutions.

1.10 Through their responses, firms expressed their views that elements of the current regime were unsuitable for innovative forms of communication. This feedback overlapped with the work already underway through the Smarter Consumer Communications initiative. A number of respondents also noted that their comments on our CFI on Regulatory Barriers to Innovation replicated those provided in response to the Smarter Consumer Communications work.

1.11 Given the convergence of these two initiatives and the specific focus this FS gives to communication, we have addressed the issues raised in response to our CFI on Barriers to Innovation in this document.

1 www.fca.org.uk/news/fs16-02-regulatory-barriers-to-innovation-in-digital-and-mobile-solutions

The Feedback Statement (FS)

1.12 This FS is structured as follows:

1.13 In Chapter 2, we consider approaches to consumer communications. This chapter builds on the examples we received from our stakeholders and sets out the FCA's thinking on what constitutes Smarter Consumer Communications.

1.14 In Chapter 3, we outline the feedback we received from stakeholders to address the specific issues we identified in the FS:

- presentation of terms and conditions (T&Cs)
- complexity of information provided to consumers at retirement
- common terminology in the general insurance sector
- cover offered by the Financial Services Compensation Scheme (FSCS) for specific products or services
- raising consumer awareness of the Financial Ombudsman Service
- transparency around the scope and cost of an investment advice service
- cost transparency, and
- communication in asset management

1.15 In Chapter 4, we examine the additional feedback we received about our Handbook and other areas that deserve further attention, in particular:

- providing information in a durable medium
- our projections regime
- our guidance on the use of social media
- risk warnings in radio advertisement, and
- annual percentage rates (APRs)

1.16 In Chapter 5, we set out our next steps.

Context

1.17 In June 2015, we published our Discussion Paper (DP) 'Smarter Consumer Communications'. In summary, we noted that:

- consumers should have access to high-quality information provided at the appropriate time to empower them to make informed decisions about their finances

- firms should adopt innovative techniques to communicate with consumers while moving away from an exclusively paper based mindset; and
- firms should embed an organisation-wide culture where the importance of communicating effectively with consumers is recognised and prioritised

1.18 In October 2015, we also published a Consultation Paper (CP15/32) that proposed removing a number of ineffective disclosure requirements[2] in order to ensure consumers only receive meaningful disclosures. The Policy Statement (PS) and final rule changes related to CP15/32 are being published alongside this FS.

Summary of feedback to the DP and our response

1.19 We received approximately 75 responses from a wide range of firms across financial services, as well as trade bodies and consumer organisations. We would like to thank all those who responded with written feedback. Their views have played a vital role in shaping our decisions on the next steps for this work.

1.20 All respondents have been very supportive of our DP and willing to contribute to the debate, recognising that many of the drivers for disclosure have changed significantly in recent years. Many stakeholders expressed a wish to become more involved with the Smarter Consumer Communications project; some went as far suggesting the creation of a Smarter Consumer Communications Hub, along the lines of the Innovation Hub.

1.21 Broadly, they identified four factors that act to limit innovation and quality of consumer communications within financial services:

- concern about the risks of changing communications, due to uncertainty about the FCA's and the Financial Ombudsman Service's expectations
- the prescriptive nature of legislation
- multiple sources of regulation, and
- the complexity of financial products

1.22 Many respondents commented that digital communications are growing in importance, and customers expect firms to adapt to technological developments. Some firms pointed out that digital communication can be as, or more, effective than paper-based communication, particularly among certain types of consumers.

2 www.fca.org.uk/publication/consultation/cp15-32.pdf

1.23 Feedback also indicated that we could do more to open up structured conversations with firms seeking to innovate and improve their communications. It was suggested that we could both provide controlled testing environments and support firms to interpret rules and how they apply to emerging processes or technologies. As one respondent put it: 'There's an important role for the regulator to play in being a catalyst for change. Firms are more likely to consider taking on these big projects if they know the regulator has an expectation.'

Chapter 2

2. Smarter approaches to consumer communications

2.1 The Smarter Consumer Communications initiative aims to encourage firms to better communicate with their customers. As part of the initiative, firms have shared examples with us where they have sought to take innovative approaches to communication. In this chapter, we set out some examples of approaches that firms are taking to communicate more effectively with their customers. These approaches seek not just to comply with the relevant rules, but also to communicate in ways their customers found most effective. By showing these examples, we hope to encourage other firms to think differently and to consider not just the required message, but about the best means of communications.

2.2 This chapter outlines:

- examples of consumer communication in non-financial markets
- examples of communications in financial services
- what good disclosure might look like to consumers
- communications in a digital environment
- digitalisation and consumer vulnerability
- challenges to effective communications

Examples of consumer communication in non-financial markets

2.3 Respondents across all sectors provided numerous examples of what they felt to be effective approaches to consumer communication. Technology and telecommunications services share some of the same challenges faced by financial services, including complexity of products. Although there are differences between the sectors, they provide interesting examples of consumer communications.

2.4 Some respondents said there was greater experimentation in other (non-financial services) industries in terms of how they are communicating with their customers, including greater use of media, the use of a more informal style, greater distillation of information and use of new formats.

2.5 Respondents observed a greater interaction in in the retail industry between consumers and business via social media. For some organisations, Twitter has become a useful mechanism for reaching out to a wider audience. Consumers are able to freely express dissatisfaction and resolve their complaints through social media channels. Firms are willing to respond to their complaint in a public forum and not shy away from what may be perceived as negative publicity.

2.6 Stakeholders pointed out that, in the car manufacturing industry, some firms had introduced personalised videos to be shared with customers for both sales and servicing. During the sales process, sales agents have the option of producing short personalised videos detailing features of the car that are important to a particular customer; the videos are then shared with the customer via text or email.

2.7 In relation to the energy sector, a number of respondents pointed out that a firm focused on providing a clear and personalised service with statements designed to be clear with technical terms fully explained. A key feature of this statement is that it includes a section at the front that details how the customer could pay less for their utilities.

Examples of innovative communications in financial services

2.8 We asked stakeholders to provide us with examples of approaches to consumer communications. Respondents reported many examples of innovative practices within their firms. We have included some of these examples, but note that each firm would need to assess their own approach to communications to ensure it meets their obligations to consumers.

Using videos to explain complex information to consumers

2.9 A number of firms are using videos to explain complex information to consumers.

2.10 Virgin Money has created a series of films, lasting less than three minutes each, which provide a guide to core financial products. They aim to provide consumers with knowledge and insight into a range of financial topics, using humour designed to engage the viewer. Other firms have used videos to assist consumers with fund selection or to understand different types of savings accounts.

Simplifying information to help consumers understand difficult concepts

2.11 Some firms have revised their T&Cs to ensure they were simpler to understand. For example, Virgin Money consolidated its Credit Card Terms & Conditions into a three page document written in a Q&A style based on the questions that customers are likely to ask, rather than the legal protection Virgin Money requires.

2.12 Santander developed a 'put simply' layer to oral regulatory disclosures. For example, in respect of data protection disclosure, the full data protection information is still provided but Santander condensed what it judges to be the key information into two sentences to help the customer to understand its context.

2.13 We discuss T&Cs in more detail later in this paper.

Using social media to communicate with a younger demographic

2.14 Nationwide partnered with Channel Flip and some of YouTube's biggest stars to create a dedicated YouTube channel for 13–17 year olds. Young people can use the YouTube channel to access engaging videos that explain complicated facts around money in a light-hearted fashion.

Using infographics and interactive tools to present complex information to consumers

2.15 Working in conjunction with the National Skills Academy, AXA Investment Managers has launched an interactive website called Get Ready to help people plan for their retirement. The site uses videos, quizzes and drag and drop content to offer 'back-to-basics' information about pensions.

2.16 Another example from outside the UK used gaming-like features to educate the growing local market on complex financial products via an educational app.

Simplifying the product design to help deliver more effective communications

2.17 Linked to the 2013 Sergeant Review of Simple Financial Products[3], Barclays launched a 'simple' fixed-term life insurance product that was independently assessed to ensure it aligned with the principles and product features identified by the review. The product launch was combined with staff training to ensure the product was clearly explained to potential customers.

Creating 'bite-sized' guides to help consumers engage with a financial concept, product or service

2.18 Aberdeen has developed '10 Golden Rules of Investing', which are brought to life through cartoons designed to educate consumers on the important points to consider when investing.

2.19 Legal & General has created a series of guides to help people manage their money more effectively. These cover a range of important topics, such as family finance, money and savings, work and money, retirement, and property and are authored by an independent journalist.

2.20 The CFA has also developed innovative approaches to communicating with consumers, such as the CFA Consumer Lending Guide to help consumers understand the protections that are in place and what they should expect from a responsible lender.

Helping consumers to choose the right payment method

2.21 The financial services industry has seen a rapid growth in payment innovation over recent years. These include contactless cards, mobile payment and wearable technology.

2.22 Nationwide developed a project to enable customers to assess the payment method that suits the task and their preferences. This is intended to match payment options to life so that consumers can choose the payment type that best suits their needs when paying for goods and services, in-store and online.[4]

Using text alerts to draw customer attention to important communication

2.23 Some firms explained that they have increased the use of Short Message Service (SMS) as a communications channel. Consumers can select free alerts that they would like to receive and choose to receive SMS to draw attention to important communications. For example, text alerts can inform consumers if they have insufficient money in their account to pay for an item and that they may be at risk of incurring a fee.

Virtual appointments

2.24 HSBC is testing high definition video technology to emulate the experience of communicating face to face with consumers. This service will allow consumers to book appointments at their convenience and connect with an adviser based on a different location via a web-chat facility.

3 www.gov.uk/government/uploads/system/uploads/attachment_data/file/191721/sergeant_review_simple_products_final_report.pdf

4 www.nationwide.co.uk/ways-to-pay

The art of conversation

2.25 One firm noted that verbal communications can be an extremely effective way of conveying information and should not be overlooked when considering smarter communications, whether that be face to face or over the phone.

Our response

We appreciate firms sharing their examples with us and are supportive of firms that are using technology, infographics, videos and interactive tools to communicate better with consumers. We particularly encourage:

- move away from a tic-box approach to communication
- prioritising efforts to ensure that information is effective for the intended audience and testing communications among real consumers, and
- adopting innovative techniques to improve how key information about products is conveyed and delivered to consumers

We have not tested the effectiveness of each approach, but welcome the examples and encourage firms to consider how best to engage their customers.

What might Smarter Consumer Communications look like to consumers?

2.26 Smarter Consumer Communications can play a fundamental role in helping consumers to make informed decisions, and can serve as a useful tool in promoting competition. This is particularly important in financial services, where products can be complex and abstract.

2.27 We believe that when they approach financial services providers, consumers need financial products that are clear and easy to understand supported by clear communications based on:

- what the consumer needs to know
- how much they need to know, and
- when they need to know it

2.28 Communication is effective when the consumers pay attention to the information, have the capacity to interpret it, and are willing to incorporate it in their decision-making process.

2.29 In summary, we think that, in order to achieve Smarter Consumer Communications, firms should:

- understand the importance of communicating effectively with consumers
- use behavioural insights to create effective product and service information for consumers, and
- creating communications as an integral part of the product or service design process

2.30 On the basis of the literature review provided to us by Oxera[5], we have identified a number of principles for designing an effective disclosure that have consistently improved consumer engagement and understanding. These are outlined below:

Principles for designing effective communications

Content & design

Plain language with short, understandable messages

The language used should be appropriate for the target audience, jargon-free and contain simple and short messages.

Designed for a target group of consumers

Communications should be designed to meet the needs of the target audience of consumers.

Key information displayed prominently and framed effectively

- Key information should be presented where consumers focus their attention including summarising key points upfront and layering additional information.
- Information should be framed and contextualised effectively. For example, when presenting a choice, framing this as a potential gain or loss can influence people's decisions.

Use of images and graphics

Some people find it easier to engage with, and understand, information when it is presented visually rather than communicated in words. This approach can also focus readers' attention on important messages.

Delivery

Timely information with a facility for consumers to act

- Information should be provided at an appropriate time to bring an issue to a consumer's attention or prompt action (e.g. reminding a consumer when a charge is potentially going to be incurred).
- Consumers should have an opportunity and ability to act on the information.

Media aware

Information should be flexible to work effectively across different media such as electronic and paper-based media.

2.31 The principles outlined above might be useful to firms in designing Smarter Consumer Communications.

Communications in a digital environment

2.32 A number of issues have been raised in response to our DP related to disclosure in a digital environment and stakeholders posed questions relating to our 'technology-neutral' stance to regulation and suggested developing a more 'digitally conducive' regulatory environment.

5 www.fca.org.uk/publication/research/review-of-literature-on-product-disclosure.pdf

2.33 As respondents have pointed out, digital communications are growing in importance, and consumers expect firms to take into account their preferences when engaging with them. Consumers can now increasingly access services over the phone, transact on digital platforms, and rely on websites as a key source of information. In fact, some firms feel that digital communications are the 'way of life' for current younger and future customers.

2.34 In particular, we received feedback that mobile and e-payment technology, and price comparison websites are driving demand for electronic transactions and digital engagement. We discuss these areas in more detail below.

Online and mobile banking

2.35 Banking via smartphones and tablets has become the leading way customers manage their finances, as mobile banking overtakes branches and the internet as the most popular way to bank.

2.36 We cannot ignore the implications that online and mobile banking transactions have on communications and the way consumers engage with them. For example, respondents have suggested that consumers are less likely to read through lengthy disclosure documents when applying for a product on their mobile phone. Firms have suggested that less-detailed information should be delivered during online sales, but the consumers should be allowed to read the full information in their own time and rely on a 'cooling off period' to cancel if they change their minds.

Price comparison websites (PCWs)

2.37 Consumers are also increasingly using PCWs. While this gives them greater information and product choice, PCWs' commercial arrangements are also leading them to focus on headline prices alone, with the risk that their choices might be unsuitable.

Our response

We recognise that technology is rapidly driving the transformation of the financial service sector and consumers are moving away from traditional methods of engagement with service providers and opting for other methods of communicating.

The FCA rules include already high-level principles that are relevant to digital transformation. These include the fair treatment of consumers (Principle 6) and communications that are clear, fair and not misleading (Principle 7).

In recognition of the feedback we received in this area, the FCA plans to produce and consult on guides on effective disclosure and digital disclosure in 2017. This technological transformation presents exciting opportunities for customers, but also challenges for firms that must balance the ability to communicate clearly with their customers alongside ensuring compliance with all applicable rules and regulations.

Further regulatory guidance on communications through the newer digital and mobile channels could encourage innovation while providing reassurance of compliance with the rules. It would also help to provide a level playing field among all market participants, which will aid customers in shopping around.

This will provide firms with further guidance on the FCA's expectations in the field of disclosure.

Digitalisation and consumer vulnerability

2.38 In response to the DP, some stakeholders raised concerns that the digitalisation of communications could lead to social exclusion for some groups. As firms continue to move more of their services online, certain vulnerable or older consumers might feel at a disadvantage since technologies may reduce the opportunity to speak to a member of staff face to face. For example, feedback highlighted concerns about the continued decline in bank branches and impacts for consumers who lack access to them.

2.39 Some consumers find communicating with providers or accessing products difficult. They may find that they are unable to obtain a flexible service that meets their information needs and that take into account their particular vulnerable circumstances.

2.40 Smarter Consumer Communications does not simply entail digitalisation of communication. All communication should consider each individual consumer's needs, including vulnerable consumers.

2.41 In response, we saw examples of firms trying to specifically catering for the needs of vulnerable consumers.

2.42 HSBC developed a virtual community – comprising staff with personal experience of dealing with vulnerable customers – which all staff can easily contact. This enables staff looking after customers with a disability or other illness to use colleagues' experience to communicate more effectively with their customers. Information gathered is being added to an intranet tool, which can be accessed by all staff.

2.43 Zurich worked with the Alzheimer's Society to improve communications with customers with dementia, which required specific training for employees.

Our response:

The digital transformation in financial services has improved access and choice for many, particularly where physical access is difficult.

While there are great benefits to using technologies to communicate with consumers, digital exclusion is a concern. To take advantage of digital transformation, consumers must have access to networks and technology to get online and be willing and able to interact with online financial services. We recognise that consumers are not a uniform group and some might prefer to obtain information in different ways.

Among different types of consumers, some might be in vulnerable circumstances. Vulnerability[6] can come in a range of guises, and can be temporary, sporadic or permanent in nature and every consumer can become vulnerable.

Vulnerability is not just to do with the situation of the consumer, but it can be caused or exacerbated by the actions or processes of firms. Vulnerability can affect people's interaction with any consumer market, but it is particularly challenging in the context of financial services due to the complexity of products and information.

We are supportive of firms that are implementing positive disclosure policies for vulnerable consumers. Given the complexity of consumer vulnerability, what constitutes good practice depends on the specific issues affecting consumers. In many ways, products and services that are designed in an inclusive way to respond better to the needs of those in vulnerable circumstances will also work better for the majority of consumers.

We have undertaken significant work in the area of consumer vulnerability and would highlight both Occasional Paper (OP) No. 8 where we explored the FCA's role in protecting consumers in vulnerable circumstances[7] and OP No. 17 on 'Access to Financial Services' in the UK.[8]

In addition, as part of the FCA's work on the Ageing Population[9], we are looking at how firms can improve their engagement with older consumers.

Challenges to effective communication

2.44 We recognise that there are challenges to effective communications. These include behavioural biases, low levels of financial literacy, and the complexity of products.

Behavioural biases

2.45 The literature on behavioural economics has identified a number of cognitive biases that affect the way consumers engage with communications and their behaviour. For example, some of the biases that can affect consumers' ability to access and act on information include:

- present bias (consumers do not like to defer gratification and overvalue the present over the future)
- overconfidence (consumers might be overconfident about the accuracy of their judgment)
- framing (the way information is framed matters; in particular, consumers weigh losses more heavily than gains)

6 A vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate care. A consumer may be in a vulnerable situation for a range of reasons. They could be on a low income, have poor health or a disability, have been in prison, or be separated, divorced or widowed. These consumers will benefit from a different approach from firms, either temporarily or on a long-term basis.

7 OP No. 8, Consumer Vulnerability, February 2015. www.fca.org.uk/publications/occasional-papers/occasional-paper-no-8-consumer-vulnerability

8 www.fca.org.uk/publication/occasional-papers/occasional-paper-17.pdf

9 www.fca.org.uk/publication/discussion/dp16-01.pdf

- endowment effect (the value of a good increases once consumers own it)

2.46 These issues can all restrict consumers' ability and willingness to engage with firms' communications, but also provides an opportunity to present information in a way that empowers people to make effective choices.

Low levels of financial literacy

2.47 The UK Government's research has found that one adult in seven has the literacy skills that are expected of a child of 11 or below. Furthermore, just under half of UK adults have a numeracy attainment age of 11 or below.

2.48 Recent research into the financial capability of the UK by the Money Advice Service reveals that when shown a sample bank statement, 16% of people failed to correctly identify the available balance, with this rising to just under a quarter of those aged over 55.

2.49 This demonstrates the importance for the financial services industry of properly understanding customers when drafting, reviewing and simplifying product information and literature.

Complex products

2.50 In many instances, appropriate communications can allow market mechanisms to function well, preserving both consumer choice and firm competition. It is important to recognise the limitations of disclosure as a regulatory tool and that more intrusive tools may be required.

2.51 For example, we intervened to prohibit the distribution of CoCos (contingent convertible notes) to retail investors as generally speaking, they are inappropriate investments for retail investors of ordinary means and sophistication. [10]

2.52 Additionally, it is worth noting that the recast Markets in Financial Instruments Directive (MiFID II) will introduce product governance requirements. Under these, product providers will need to consider the needs of consumers in the target market and reflect those needs in the design, structure and distribution strategy of their products before launch, and monitor the product during its life to check it works as expected.[11]

2.53 In instances such as these, disclosure is insufficient as a regulatory tool.

10 FCA Policy Statement Restrictions on the retail distribution of regulatory capital instruments, June 2015.
11 www.fca.org.uk/news/press-releases/fca-consults-aspects-markets-financial-instruments-directive-ii-implementation

3. Summary of feedback and our response

3.1 In this chapter, we summarise the responses we received to our proposals. In the DP, we:

- acknowledged low levels of consumer engagement with T&Cs, which typify the most common concerns about information complexity and overload
- suggested that the industry could adopt agreed common terminology in the general insurance market to provide more clarity for consumers
- encouraged industry and other stakeholders to work together to address complexity of communications in retirement
- welcomed ideas around proposals to improve communication around the coverage of the FSCS
- welcomed initiatives to reduce unnecessary referrals to the Financial Ombudsman Service
- invited ideas and views around how improve the information consumers receive about the scope and cost of investment advice
- invited ideas on how to increase cost transparency; and
- encouraged suggestions for making information more effective and engaging specifically for consumers of the asset management industry

Terms and conditions (T&Cs)

3.2 There was general agreement that consumers find it hard to engage with T&Cs. When T&Cs are provided online, it was noted by a number of firms that few consumers access the link.

3.3 It was highlighted that the main concern from a provider's perspective was evidencing that the customer has read and understood the T&Cs, especially the most relevant information. The City of London Law Society highlighted that the binding and regulated legal nature of T&Cs made them qualitatively different from other forms of consumer 'communications' whose functions are primarily informative and/or promotional.

3.4 Some respondents, especially from the insurance industry, argued that to see a reduction in the length and complexity of T&Cs, engagement with the Financial Ombudsman Service was crucial since, without contractual certainty, the Financial Ombudsman Service would tend to rely on the application of the 'Contra Proferentum' rule, having the effect of ruling in favour of the consumer.

3.5 Firms were concerned that if they were to simplify their T&Cs, it could result in greater ambiguity and misunderstandings. It was suggested that the FCA should engage with the Financial Ombudsman Service to provide greater clarity around information to be contained within a customer journey and what needed to form part of the T&Cs.

3.6 Most respondents, however, were more positive, acknowledging that more could be done to improve T&Cs, with an emphasis on greater focus and clarity by using layering or new media, or by developing consistent terms or formats.

3.7 The City of London Law Society argued that a layered approach to delivering T&Cs could be useful, but noted that it would need to be implemented carefully with appropriate regard for the legal implications of appearing to classify terms into tiers of relative importance.

3.8 Some firms expressed that they would support a move towards more engaging, slimmed-down T&Cs, which signpost readers to relevant sections either within the same document or in other communications.

3.9 Other firms highlighted that they have already taken measures to reduce and simplify T&Cs. One bank is in the process of testing different approaches to displaying T&Cs in a digital environment.

Our response

T&Cs constitute the legal agreement between a firm and a consumer. Consequently, they give rise to contractual obligations and it is important that both firms and consumers understand their T&Cs, as breach of any provisions can result in litigation by either party.

However, we consider that one fundamental barrier to improving T&Cs is the over-disclosure approach adopted by firms as a mechanism to mitigate perceived risk of litigation. In our view, we consider this concern should not prevent firms doing more to improve the quality and effectiveness of T&Cs.

The key challenge for the industry is to incentivise consumers to engage with the critical information in the T&Cs, especially in a digital environment.

We would challenge the argument put forward by some firms that where a consumer clicks to open the T&Cs, the firm's disclosure obligations have been met in providing information to consumers in a way that is clear, fair and not misleading. This is illustrated in the case study below.

Box 1: Unclear Terms and Conditions

Mrs A switched her account. She was attracted by an offer which said she would receive an incentive of £100 to switch her account. However, when switching her account, she was told that she did not qualify for the incentive because she did not meet one of the terms about setting up direct debits. Mrs A thought that the Term about setting up direct debits was not clear but the firm disagreed and this case was referred to the Financial Ombudsman Service.

The Term in the bank's switching offer dealing with direct debits said that the consumers had to:

Credit at least £500 to your new account within 30 days of the switch completing and register a minimum of three active Direct Debits.

Mrs A registered the three debits but the firm considered that one of them was registered more than 30 days after the switch so Mrs A did not qualify for the incentive. The Ombudsman agreed that the term said that the £500 had to be credited to the account within 30 days, but it was not clear that there was a time limit on setting up the direct debits. The Ombudsman ordered the bank to pay Mrs A the £100 incentive it offered.

We recognise that the presentation of T&Cs is a complex issue and there are a number of perspectives that will need to be considered. We welcome existing efforts by firms to make the content of T&Cs more approachable and delivered in innovative ways, which may include videos or infographics.

However, we believe improvements can be made and that the industry has a critical role to play. In order to facilitate progress, we will host a roundtable with firms by early 2017 to start discussions on how improvements can be made to T&Cs.

Common terminology in the insurance industry

3.10 General insurance has been an area of focus for the FCA. We have undertaken studies into the sales of add-ons and thematic reviews looking at the sale of Motor Legal Expenses Insurance (MLEI) and the use of PCWs, each accompanied by qualitative consumer research looking at the factors that influence consumers' purchasing decisions. We acknowledged that comparisons can be difficult, but in part this is because language is complex and confusing, and because policies themselves are difficult to compare even for simple products.

3.11 In the DP, we suggested that the industry could adopt agreed common terminology in the general insurance market to provide more clarity for consumers.

3.12 Respondents from both insurance and banking sectors supported the idea, on the basis that greater consistency of explanation and delivery of information about products or key terms can help to create a simpler customer journey and improve understanding. Firms supported the idea that the industry should play a key role in driving common terminology in the general insurance sector.

3.13 Some firms could see a role for the use of common headings or templates to support comparisons, but were also concerned that due to the differences between products and the move towards modular products where consumers build their own product, prescribed formats could lead to additional complexity. Respondents expressed concern around prescribing wording and product definitions.

3.14 A firm suggested that helping educate consumers to understand more about their needs for insurance protection was another area to consider. They welcomed the ABI and Money Advice Service's campaign to raise awareness of the importance of safeguarding finances either by saving or relevant protection insurances.

Our response

Our work so far has shown that consumers have poor understanding of products in general insurance. Our supervision work on the Price Comparison Website Thematic Review[12] demonstrated that consumers do not see policies as different, either when comparing policies or different insurers. This is important since PCWs – which are becoming the major channel for consumers' purchase of insurance products – might not always ensure that consumers are given the appropriate information to help them make informed decisions.

Consumers tend to focus on headline price and brand when using PCWs and this could distract them from crucial product features, such as policy coverage and terms. It is critical, therefore, that consumers using a PCW are presented with clear and useful language that could empower consumers to make comparisons. As part of the thematic work, the FCA, set out its expectations on firms to take action on the specific areas we identified including that consumer are provided with appropriate information to make an informed decision.

On 29 September 2016, the Competition and Markets Authority announced a market study into digital comparison tools, like comparison websites to see how they are working for consumers, business and the economy.[13]

We welcome respondents' engagement on common terminology, which came from both insurance and banking sectors. It is encouraging that respondents generally supported the development of appropriate agreed common terminology, as a way of improving customers' understanding, engagement, decision-making, overall user experience of insurance products, and trust of the insurance industry.

In a market where many consumers rely on their own knowledge to navigate financial decisions, the ability to confidently compare products could benefit from clearer, briefer and more standardised information written in terms that consumers can understand.

We encourage industry to work together in developing consistent terminology and reducing the complexity of language and jargon.

We would support any industry initiative to simplify and demystifying consumer communications to help drive a greater understanding of the key product benefits and limitations enabling consumers to make informed decisions based on a broader range of considerations than price alone.

Should the industry fail to make serious progress by the end of 2017, we would consider introducing standardised language across the insurance industry.

Telephone disclosures

3.15 Respondents raised concerns that, in some markets, firms are not giving meaningful information to consumers. This is the case, for example, in general insurance when firms provide lengthy, complex and most often pre-recorded detailed information during telephone calls, in a manner that leads to consumers disengaging with the content. Feedback indicates that most consumers

12 www.fca.org.uk/publications/thematic-reviews/tr14-11-price-comparison-websites-general-insurance-sector.

13 www.gov.uk/government/news/cma-launches-study-into-digital-comparison-tools

do not engage during the call with some clearly feeling that the conversation is simply a barrier to obtaining access to the products they are wishing to buy.

Our response

Telephone sales procedures are currently regulated by the Distance Marketing Directive (DMD). The DMD aims to ensure that consumers are given minimum specified information about a financial product or service before entering into a contract. The DMD applies where the contract is offered, negotiated or concluded exclusively by one or more means of distance communication under an organised distance sale or service-provision scheme.

Although the DMD does not allow us to make changes to remove or amend these disclosures, we can assess whether firms' practices are going beyond what are the legislation requirements and whether the delivery of the information is consistent with our Principles.

We will undertake further work in this area and seek to identify and address specific cases where unhelpful or unnecessary information is being provided to the detriment of consumers. We remind firms of their obligations to ensure that information for consumers is fair, clear and not misleading.

Complexity at retirement

3.16 Respondents agreed that pension reforms provide an opportunity to review and improve the language used to communicate with consumers at the accumulation phase, in the run up to retirement, at retirement and beyond. As some respondents observed, many of those approaching retirement had acquired a product by virtue of their employment, rather than by active choice, and will not have engaged with saving for retirement throughout their careers. As such, the challenge is more far-reaching than just dealing with customers at the point of making retirement decisions.

3.17 Some firms observed that consumers needed a better understanding of risks in order to take charge of their pension savings, and the tax and benefits consequences.

3.18 Some firms noted the significance of the unique financial decision that consumers need to make to secure an income in retirement. This decision is only carried out once, so consumers have little or no opportunity to learn from experience. Getting the right outcome is vital, as it affects consumers' income for the rest of their lives.

3.19 A number of respondents argued that there was little hope of consumers understanding the consequences of their choices unless firms engaged with them on a one-to-one basis. However, it was felt, not all customers would engage, with some feeling that the conversation was simply a barrier to them getting access to their cash.

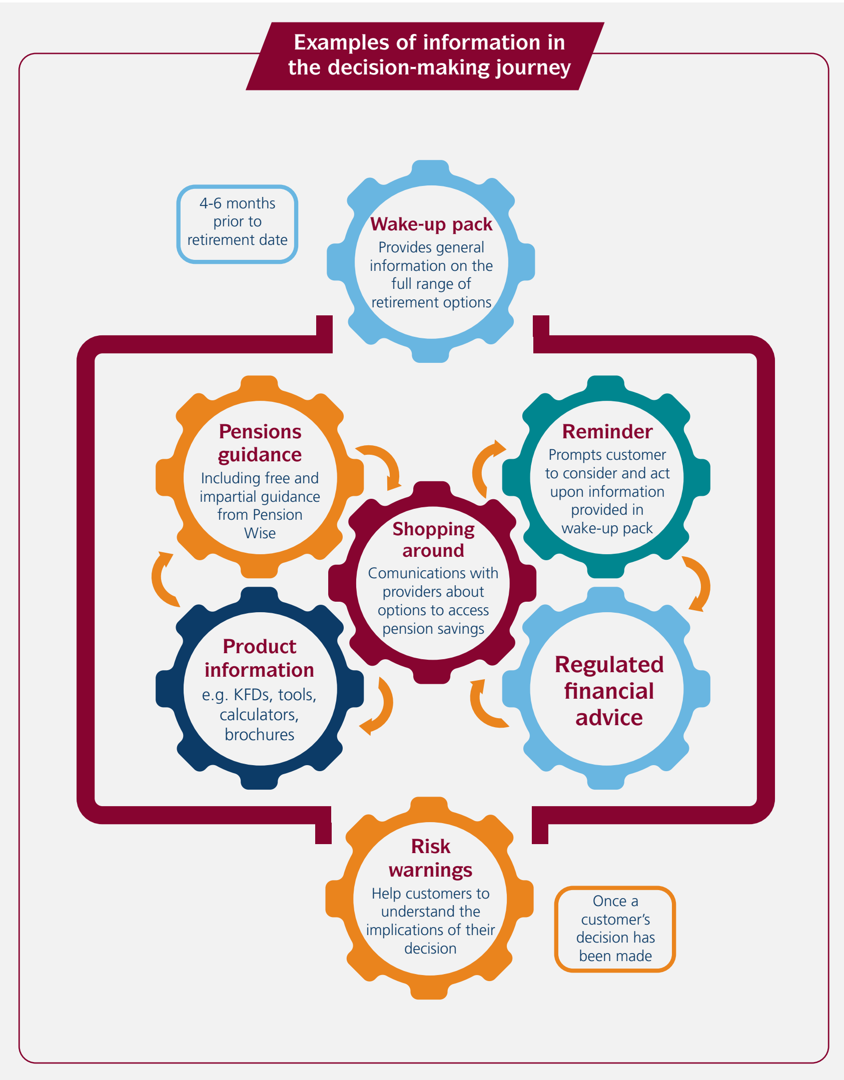
3.20 Some respondents agreed that initiatives to reduce jargon and create a common language around pensions and retirement are well-founded. While they see some merit in having standardised requirements for retirement communications, they are less convinced about using standardised materials across the industry and believe this could stifle innovation and reduce consumer engagement, as standardised communications will reduce impact.

3.21 As such, while firms agreed that much can be done to improve communications at retirement, they argued that better communication on its own would not be sufficient. Consideration has to be given to the overall consumer journey and how firms effectively ensure engagement.

Our response

Pensions is a priority sector for the FCA. In our 2016/17 Business Plan, we committed to looking across the sector to ensure our policies support the fair treatment of customers and encourage competition.

In light of the introduction of pension freedoms, it is important that firms ensure that consumers have appropriate information at the different stages of the consumer journey, and across the different ways people engage, to make informed decisions about how to access their pension savings. The FCA has been working with firms on these important issues.



In March 2015, we published our Retirement Income Market Study, which included a series of remedies to improve communications for consumers as they approach retirement. Remedy 3 recommended redesigning and behaviourally trialling the information consumers receive from their provider in the run up to their retirement. The information that consumers receive through these 'Wake-up Packs' is designed to encourage them to begin to consider their decumulation options. We are currently testing ways to improve the Wake-up Packs sent to consumers by simplifying and clarifying the information they contain. We expect to share the results of this testing and our next steps in Q1 2017.

Our Market Study also recommended that consumers who have decided to purchase an annuity be provided with an annuity quotation comparison by firms. We have undertaken and published research that looks at the impact of providing targeted information, just before the point at which a consumer purchases and annuity, to help consumers understand the benefits of shopping around. This research included a number of lessons for regulation, as well as specific implications for the annuity market, which is summarised in Box 2. As a result of this research, we intend to consult on rule changes necessary to implement the annuity comparator later this year.

Box 2: Key lessons from Oxera's research looking at whether prompts can raise consumer engagement and shopping around in the annuities market.

A key lesson from the research is the importance of what behavioural economists call 'social proofing': the idea that consumers assess their options and circumstances relative to their peers'. For example, one group of participants was told that '8 out of 10' of people who buy an annuity from their existing provider miss out on increased income. This general message had a significant impact on shopping around.

The research also confirms that 'information overload' can quickly undermine the benefits of other features in communications. For example, consumers were actually less likely to shop around when the lifetime gains of doing so were added to a personalised comparison of their options.

The research evidences two key conclusions for annuity sales. Firstly, it shows that the proposed annuity comparator should have a significant impact on shopping around. This conclusion was robust across different (including socioeconomic) groups. Secondly, the testing also showed that a particular – personalised – form of the remedy was most effective. Participants were over three times more likely to shop around for an annuity when they were shown the difference that it could make to them.

As a result of pension freedoms, we have also made changes to our regulatory requirements to ensure that firms provide customers with appropriate information to encourage consumers to explore the full range of options when accessing their pension savings and enable informed decision making. Firms are also required to give appropriate retirement risk warnings to consumers who have decided, in principle, how to access their pension savings, in order to help the individual understand the implications of the decision they are making.

As set out in our Business Plan 2016/17, going forward we will undertake a review on retirement outcomes to consider the impact of pension reforms on competition and switching in the market. As part of this, we will be considering the information consumers receive from firms and the impact this has on their decisions about how to use their pension savings and encourage shopping around.

In addition to the work we have done, and will continue to do, to improve consumer communications at retirement, we are aware that the industry has taken steps to improve communications in the pension and at retirement sector. We welcome and encourage efforts by the industry to improve the choices consumers are making as they approach, and go through, retirement.

Our Smarter Consumer Communications DP focused on communications with consumers who are considering how to access their pension savings. It is also important to ensure communications with consumers as they build up their pension savings, and help consumers engage with, and save for, their retirement.

We have rules setting out requirements for the information that consumers should receive when taking out or being enrolled in a contract-based pension scheme. Like most our pension communication rules, these set the minimum requirements we expect of firms focusing on what information should be provided and when. We encourage firms to consider how this information is provided to consumers to empower people to engage with, and make effective decisions about, saving for their retirement.

Raising awareness of the FSCS

3.22 The DP considered that the industry could do more to help consumers identify those circumstances in which the FSCS can provide compensation (before they enter into a binding contract). The DP proposed two suggestions:

- to require firms to use the FSCS logo on their product literature to increase awareness of the scheme, and
- the use of simple labels in a format based on the familiar and widely understood traffic light visual summary

Use of the FSCS logo

3.23 Some firms pointed out that the use of the FSCS logo in companies' communications is helpful in promoting greater awareness of the scheme; some firms support this becoming a regulatory requirement. A firm suggested that the FCA could consider providing a link to the FSCS website from its own website.

Creating a visual summary of FSCS protection

3.24 Some respondents suggested that the traffic light visual summary put forward by the FCA could be misleading. They noted that FSCS coverage is predicated not only on the type of product or service involved, but also on the fact that a firm must be in default and the consumer must have a valid cause of action against the firm.

Our response

The challenge for the FSCS scheme is to communicate the protection and coverage offered to consumers across a wide range of products and services, held and delivered in different ways.

There are three pieces of information that are relevant to a consumer:

- first, whether the firm and the products/services offered are covered by the FSCS;
- second, what FSCS compensation limits apply to the specific products and services;
- and third, in what circumstances would consumers be eligible for compensation.

We have taken on board feedback from respondents that a traffic light visual summary could be misleading, especially for investment products. Although using the FSCS badge for deposits where issues of eligibility are much less complex is uncontroversial, the protection applicable through the FSCS for investment products is more complex. We also have noted firms' concerns that a simple label could potentially create a misconception that investment loss is covered when FSCS compensation would only be available in circumstances where a firm's actions had led to the loss (and not for losses due to market movements).

We will explore further how to raise awareness and understanding of the FSCS and its coverage.

Raising awareness of Financial Ombudsman Service

3.25 The Financial Ombudsman Service settles individual disputes between consumers and businesses providing financial services. However, it currently also receives enquiries from consumers who are not looking to have a complaint investigated, but are trying to identify what to do when they have a comment or query about a product or service that is not operating in line with their expectations.

3.26 In the DP, we recognised that there is more that the industry could do to help consumers to identify the most appropriate person to speak when they have a query about a product or service that was not operating in line with their expectations, in order to reduce the number of unnecessary referrals to the Financial Ombudsman Service.

3.27 A number of stakeholders are already taking steps to reduce the number of unnecessary referrals to the Financial Ombudsman Service. This includes, for example, facilitating the ability customers contacting the right people in the firm without requiring that customers specifically articulate the issue as a "complaint".

3.28 Stakeholders shared a number of other concerns related to the Financial Ombudsman Service.

Our response

We are supportive of the role of the Financial Ombudsman Service in resolving disputes between consumers and firms, providing a quicker, easier alternative to the courts. We welcome firms' initiatives aiming to reduce unnecessary referrals to the Financial Ombudsman Service: for example, by offering consumers comprehensive 'contact us' details.

Where respondents have provided comments regarding the Financial Ombudsman Service, we have passed those along to them for their consideration.

We recognise that the Financial Ombudsman Service has an important role to play and we will continue to discuss Smarter Consumer Communications with them.

Transparency around the scope and cost of an investment advice service

3.29 Our DP outlined our concern that consumers' understanding of both adviser charges and the nature of advice is limited. We encouraged firms to do more to clearly explain the scope and cost of the investment advice provided. The feedback we received focused mostly on suitability reports and advice labels.

Suitability reports

3.30 Some respondents to the DP suggested the time taken to produce a suitability report, which communicates a personal recommendation to a client, was one of the most time-consuming parts of the advice process.

3.31 One trade association pointed out that firms were adopting different approaches when producing suitability reports and there was uncertainty around the appropriate level of information to include in the reports.

Our response

We acknowledge that many firms spend significant time on producing suitability reports. The existing FCA rules on suitability are not prescriptive and give firms flexibility in designing their suitability reports to meet regulatory requirements.

The FCA rules require that suitability reports:

- specify the client's demands and needs
- explain why the firm has concluded that the recommended transaction is suitable for the client having regard to the information provided by the client, and
- explain any possible disadvantages of the transaction for the client

Suitability reports was also an area of focus on the Financial Advice Market Review (FAMR). We will work with the Association of Profession Financial

Advisors (APFA), the Personal Finance Society and the Financial Ombudsman Service to help the industry develop guidelines for preparation of suitability reports to make them more accessible for consumers and reduce the time firms spend preparing them. This includes, for example, layering information so the most important material is included towards the start of the report and simplifying the language used.

Advice labels

3.32 In the DP, we considered whether a variation of the US Environment Protection Agency's fuel efficiency label could be used by investment advisers to help consumers' understanding of:

- whether the investment advice a firm offers is independent or restricted and what this means in practice, and
- the cost of the investment advice offered by a firm, broken down by costs for one-off and ongoing advice

3.33 Stakeholders agreed that levels of consumer understanding are relatively poor for advised services. While respondents supported the concept of standardised advice disclosure in principle – as this creates a level playing field for firms – they were critical of the advice labels suggested in the DP. Respondents highlighted that the information included in the example labels, as shown in the DP, was no different to what many firms now provide in their disclosure materials and did not bring further clarity to consumers.

3.34 One firm suggested a clear separation between information designed to enable consumers to understand the service that they are being offered from information designed to assist shopping around, along the lines of food labelling, where a number of criteria can be assigned a traffic light score to aid easy identification of the key information.

3.35 Some stakeholders involved in the advice and investment market suggested that lack of clarity over regulatory definitions of advice, guidance and personal recommendations was a barrier to Smart Consumer Communications.

Our response

It is essential for clients to have a clear understanding of the level of charges and the nature of services on offer so they can make informed decisions about whether they meet their needs.

In line with the FAMR recommendations, we support the use of simpler terms that consumers can easily understand, which make clear the distinction between regulated advice and guidance and explain in plain English the nature and cost of the service to the consumer

The Financial Advice Working Group, set up after the publication of the FAMR Report, is planning to publish a shortlist of potential new terms to describe 'guidance' and 'advice' by the end of 2016.

Cost transparency

3.36 In our DP, we highlighted that providing clear information about all costs and charges associated with a product or service can encourage better outcomes for consumers. However, financial services products often involve multiple prices and charges that are incurred at the time of purchase and beyond and are difficult to identify. The existence of multiple and unclear charges at different stages may confuse consumers and complicate the comparison across competing products.

3.37 Respondents recognised the importance of greater clarity in this area since consumers do not fully understand what they are being charged. However, respondents also recognised that costs should not be the only factor on which consumers base decisions. Policy terms and benefits may differ among companies and are key points of differentiation. The overall consumer journey should be considered so that the consumer can obtain the information needed to make an informed decision. One respondent highlighted the importance for consumers to see costs in context, and that figures cover actual costs and all hidden extra costs.

3.38 Some stakeholders agreed that more could be done to ensure greater cost transparency for consumers. They mentioned, for example, that in renewal letters, insurers could state the previous year's premium alongside the renewal premium in order to enable consumers to compare and shop around. Stakeholders also mentioned that the disclosure of distribution costs for insurance products would also allow for greater transparency in costs and products value.

3.39 Several respondents from the mortgage sector referred to the ongoing joint initiative between CML and Which? on the transparency of fees and charges. Many acknowledged and welcomed their attempt to improve transparency.

3.40 A number of stakeholders expressed concerns in relation to the lack of transparency in relation to fees and charges in asset management. A firm stated that the aspect of 'fees and charges is one of the least understood parts of the fund management purchase/monitoring process'.

3.41 Some respondents recognised that the Investment Association had taken steps towards clearer disclosure to investors on fees and charges: both through its 2012 guidance on Enhanced Disclosure of Funds and Charges and Costs, and the recent revisions to the Statement of Recommended Practice (SORP).

3.42 One firm suggested having a red/amber/green rating for the price of an investment relative to comparable investments. This approach could allow a consumer to purchase a higher-cost investment if they believed the potential investment returns were sufficient to justify the additional expense. The firm warned that this would need to be an industry standard in order to be worthwhile.

Our response

Consumers are best able to assess the quality and suitability of a product or service when they are meaningfully informed about its key benefits and features. The Consumer Rights Act 2015 requires transparency in written contract terms and FCA rules require communications to be fair, clear and not misleading.

We believe that effective disclosures reduce the risk of consumers failing to consider the most important information by presenting the key information upfront and separately from the complete suite of information.

We remain concerned that, for some financial products and services, consumers pay more than they expect because of the opaque nature of some costs.

For example, platform charges are sometimes not made clear to consumers, making it difficult for them to assess the full cost of investment. This is important since, typically, a significant proportion of UK retail consumers buy investment products via online platforms and fund supermarkets.

In asset management, we agree that the full cost of investing is sometimes not clear from the upfront charging figures communicated to investors. The annual management charge (AMC), the total expense ratio (TER) and the ongoing charge figure (OCF) potentially do not provide a clear picture of the full costs for consumers.

There are a number of recent pieces of EU legislation aiming at increasing the transparency around costs and charges. Requirements derived from EU legislation will remain applicable in the UK until any legislative changes are made – changes that will be a matter for the UK Government and Parliament:

- The Packaged Retail and Insurance-based Investment Products (PRIIPs) regulation and MiFID II will both require all costs and charges to be disclosed to investors, including costs that are not typically included in existing disclosures. In particular, the PRIIPs Regulation will require a manufacturer of a PRIIP to disclose the costs associated with an investment in the PRIIP, both the direct and indirect costs.[14]

- Under MIFID II, all aggregated information about all costs and charges will be disclosed to consumers – including all costs that could impact on returns, such as transactions costs. These disclosures should help consumers to understand the cumulative effect of charges. MiFID II does not, however, prescribe how the information should be presented.[15]

We already have a domestic regime where firms are required to give their clients information about costs and charges – both in relation to investment services and products.

There are also a number of FCA initiatives that aim to investigate and increase transparency of costs and charges:

The Asset Management Market Study is looking at transparency on costs and charges in the asset management sector. The FCA aims to publish an interim report in 2016 and a final report in 2017.

Alongside the market study on mortgages, the FCA will contribute to the next phase of the CML and Which? work on the transparency of mortgage fees and charges, with the aim of ensuring that relevant concerns raised by stakeholders during the CFI are appropriately taken into account

The Pensions Act 2014 will also place a duty on the FCA and the Department of Work and Pensions (DWP) to require information about transaction costs to be disclosed and published. The FCA and the DWP have already published a joint

14 www.fca.org.uk/publication/consultation/cp16-18.pdf
15 www.fca.org.uk/publication/consultation/cp16-29.pdf

call for evidence in March 2015 seeking stakeholder views on transaction cost disclosure in pensions. On 5 October the FCA published a Consultation Paper (16/30), *transaction cost disclosure in workplace pensions*, that proposes rules and guidance to improve the disclosure of the transaction costs in workplace pensions. It sets out for the first time a standardised disclosure of the transaction costs that the pension investment incur.

The FCA new rules and guidance in the general insurance markets will require firms to disclose last year's premium on renewal notices making price increases at renewal more transparent.[16]

The Retirement Income Market Study (RIMS)[17] proposed the creation of an 'annuity comparator' to provide targeted information, just before the point of purchase, to help consumers who have decided to purchase an annuity understand the benefits of shopping around.

Communication in asset management

3.43 In the DP, we asked for suggestions for making information more effective and engaging, specifically for consumers of the asset management industry, while highlighting our intention to remove the requirement to produce short reports.

3.44 We were challenged by one trade association in our choice to focus a question specifically on the asset management industry, on the basis that the regulatory approach to providing key information for investors in retail funds (the KIID) served as inspiration to create a Europe-wide key investor information regime for other retail investment products (PRIIPs). Other respondents, however, recognised that communication in the asset management industry was some of the most complex and least clear.

3.45 Respondents made the following suggestions:

- The use of storytelling, analogies, examples, and visual aids, supported by straightforward narrative, could help consumers to grasp financial concepts and support effective work by financial advisers as well.
- The use of videos as a tool to provide a detailed explanation as to the underlying reasons for fund performance where narrative is essential.
- Key information should be provided as part of the digital journey rather than rely on pdf content. For example, The Key Investor Information document has to be provided to customers as a pdf (or other durable medium) but firms should not rely exclusively on this and customers should also receive important information in an engaging digital format as they progress through the steps of engaging with a firm.
- All cost information should be in a standardised format to allow prospective investors to make meaningful comparisons between all products – e.g. SIPPs, pensions, funds, investment trusts, ETFs, and so on.

16 www.fca.org.uk/sites/default/files/ps16-21.pdf
17 www.fca.org.uk/publications/market-studies/retirement-income-market-study

3.46 Some respondents suggested that the best approach was for firms to be given the freedom and flexibility to develop an approach to communicating with their customers in a way that aligned with the firm's own communication style and brand. 'Each firm knows how best to communicate with their customers. This can often act as a differentiator for some customers who may well select a firm on the basis that their communications are easier to understand than others.'

3.47 Fund investors welcomed efforts by the Investment Association to simplify language and presentation. One respondent emphasised that the simpler the product, the simpler the explanation should be; however, getting the balance of information right for each product was challenging. One firm argued that the Investment Association glossary should become a standard vocabulary used by the industry.

3.48 Some respondents highlighted that since the content of the UCITS KIID was subject to detailed rules, they had next to no latitude to make the content more effective or engaging. Firms also felt they need to be cautious in the development of marketing material to run alongside the KIID, as the pre-eminent position of the KIID should not be compromised, as set out in Article 3 of the KII Regulation: 'In particular, it shall not be presented or delivered in a way that is likely to lead investors to consider it less important than other information about the UCITS and its risks and benefits.' [18]

3.49 A number of firms agreed that investors accessing products via a platform should be given the same information and rights as those who invest directly. For example, although some platforms provide the Supplementary Information Document (SID) alongside the KIID, most do not. It was argued that, where there is no adviser involved (direct to consumer) the platform should be obliged to provide all information to the underlying customers as if those customers had invested directly with the fund/product provider. The argument is that to not do so creates a risk that customers are not appropriately informed and receive an inferior experience.

Our response:

In CP15-32, we consulted on proposals to remove the requirement for Authorised Fund Managers (AFM) of UCITS schemes and non-UCITS retail schemes to produce a short report. All respondents supported our proposals and we have therefore decided to proceed with this proposal although we note that it remains essential that firms consider the information need of consumers.

We welcome the suggestions provided by firms for making information more effective and engaging, specifically for consumers of the asset management industry. We agree, for example, that the use of websites can be useful source information for investors if designed with the consumer in mind. We are supportive of the work of the Investment Association to develop a 'Glossary for Investors'.

The Asset Management Market Study is looking at how retail and institutional investors make choices and whether they have access to the information they need to make informed decisions. The FCA aims to publish an interim report in Q4 2016 and a final report in 2017.

18 www.handbook.fca.org.uk/handbook/COLL/Appendix/1EU.html?date=2016-06-01

4.
FCA Handbook

4.1 The FCA Handbook contains disclosure requirements for investment products, mortgages, general insurance, banking and consumer credit products, and other specific activities and services. The guidance in our sourcebooks is complemented by non-handbook guidance that might come out following Thematic Reviews.

4.2 Disclosure requirements differ in terms of the information required to be disclosed depending on the complexity of the product. For example, we have high-level disclosure requirements for savings products (considered to be low risk and easier to understand), but more detailed and in some cases prescriptive disclosures are required for investments.

4.3 In our DP, we asked firms to identify any information provision requirements contained in the FCA Handbook that could prevent or inhibit them from effectively communicating important information to consumers.

4.4 Feedback we received covered:

- general consideration on the FCA Handbook
- specific disclosure rules
- the concept of durable medium
- our projections regime
- the Social Media Guidance
- risk warnings in radio advertisements, and
- Annual Percentage Rates

General consideration on the FCA Handbook

Disclosure rules are not always suited to a digital environment.

4.5 Firms noted that much of the Handbook was drafted before the digital and mobile transformation; as such, they felt that it was focused on firms working in a paper-based environment. Firms pointed out that consumers prefer to engage with services through digital and mobile platforms and considered that this should be reflected in the Handbook. One firm commented that much of the content of the FCA Handbook had been inherited from its predecessor, the FSA, predating new technological advances and creating a challenge when communicating via social media: for example, sending T&Cs via mobile and digital apps.

4.6 The widely held view among respondents was that regulatory requirements related to communications could benefit from a comprehensive rethinking as to their fitness-for-purpose in a digital age.

Disclosure rules have been shaped by European legislation

4.7 Firms pointed out that the Handbook had been shaped by European legislation and requirements. Some firms noted that product documentation is often designed by many committees at EU and UK levels.

4.8 There was concern among many in the industry around the value of the forthcoming European disclosure documents, such as the PRIIPs KID and the Insurance Product Information Document (IPID).

Disclosure rules are not consistent across FCA-regulated markets

4.9 Firms argued that the FCA disclosure rules require them to provide a large amount of information to consumers with little consistency between different types of product. Respondents asked for a more consistent approach across all FCA-regulated markets.

Layered approach to customer communications and disclosure

4.10 An argument was put forward by all sectors for more balance in the provision of information to give more certainty and clarity.

4.11 Layering of information was suggested as a useful way to guide customers through their journey in a way that enables them to digest each part easily rather than including all information up front.

Specific disclosure rules

4.12 Firms have pointed out their concerns in relation to specific disclosures rules. We have summarised them in the table in annex 2. We are planning to consult in relation to MCOB 7.5.3, COBS 4.5.5. G, and will consider whether to issue guidance in relation to KIIDS COBS 14.2.1R and COBS 6, ICOBS 6.1.5.

Our response

Many of the existing FCA rules were drafted with more traditional, paper-based communications material in mind. This FS offers an ideal opportunity to revisit our Handbook in light of the current digital environment.

Many of the requirements in the Handbook stem from European directives or regulations. For as long as the UK remains a part of the EU, where there are specific European disclosure requirements, the FCA and firms must abide by these requirements.

However, there are still opportunities to achieve a more targeted, proportionate and customer-centric approach to disclosure particularly during legislative reviews.

We plan to consult in early 2017 as illustrated in the table in annex 2.

The concept of a durable medium

4.13 Respondents stated that rules relating to 'durable medium' had caused confusion as to how they are expected to communicate certain information to consumers in the context of digital services. Firms have interpreted the durable medium requirement as a need to provide information in paper-based or Adobe Acrobat PDF format, which certain mobile devices cannot use.

4.14 Firms feel that the rules have often not been updated to reflect developments in digital technology, and the drafters of the rules (which reference floppy disks and CD-ROMs) could never have anticipated their application to the online delivery mechanisms now available to firms. Firms advocated the reviewing of the various UK and European instruments that can apply in this area, including: MiFID; Distance Marketing Directive; Insurance Mediation Directive; Payment Services Regulation; and the Consumer Credit Act.

Our response

We agree, in principle, that the definition of 'durable medium' may be outdated and may not easily allow the availability of long-term cloud based storage applications to be taken into account. We also agree that the use of the term durable medium in our Handbook could benefit from reconsideration in light of that fact that consumers may access services via their mobile devices.

Therefore, we will undertake a review of the use of the term 'durable medium' in the Handbook and consult on possible changes within the confines of EU legislation. We plan to undertake this review by early 2017.

Our projections regime

4.15 Many respondents stressed the need to review requirements related to projections and illustrations, highlighting that it is one of the most detailed and prescriptive areas in the FCA Handbook. Some argued that a more principles-based approach, rather than a prescriptive one, would be beneficial for consumers.

Our response

Although concerns were raised regarding the regulatory framework applying to illustrations, which includes the rules applying to the presentation of future performance, we do not plan to review our approach in this area.

Many rules[19] relating to illustrations are, or will be, driven by EU legislation such as MiFID II and the PRIIPs Regulation. We are currently consulting on changes to our disclosure rules to reflect the direct application of the PRIIPs Regulation which will impact on the way firms can present illustrations.[20] Further, as the

19 The key exemption is in relation to pension, COBS 13.4.

20 www.fca.org.uk/publication/consultation/cp16-18.pdf

scope of the PRIIPs Regulation may be expanded to also encompass pension products from 2018, we do not currently plan to reconsider the illustrations rules framework in the short term.

As indicated in PS 16/12 on Pensions Reform, we do not intent to undertake a full review of our product disclosure regime in the short term. This does not mean that there will be no changes; we still intend to undertake business-as-usual work, such as reviewing the maximum projections rates next year on the basis of economic research.

The Social Media Guidance

4.16 We received a substantial number of comments in relation to our Social Media Guidance from both respondents to our DP and the CFI on Barriers to Innovation.

4.17 Comments focused on two main aspects of the social media guidance: the standalone compliance requirement of financial promotions regime, and risk warnings and other required statements.

The standalone compliance requirement of financial promotions regime

4.18 Respondents would welcome a re-examination of our Social Media Guidance, arguing that rules around standalone compliance of financial promotions could be prohibitive when working in a digital/social media environment. It was argued that a media-neutral approach results in firms not being as likely to make full use of digital media advertising. One respondent went further, stating that the guidance is disconnected with the needs of consumers and the reality of the media.

4.19 Some firms argued that instead of having a standalone compliance requirement, it would be more appropriate to have a 'click-through approach' whereby the initial communication was only required to be fair, clear and not misleading. The website to which it links could then meet any further requirements that might be triggered by the content of the initial communication. Some firms pointed out that consumers are unlikely to make decisions solely on the basis of an online banner advert. Respondents argued that the whole customer journey should be considered rather than each individual piece of communication.

4.20 One firm stressed that the standalone compliance of each promotion had some unforeseen consequences: firstly, that risk warnings could put customers off at a very early stage; secondly, that small space communications were hard to achieve, as there was so much compliance information that needs to be included, resulting in key messages becoming lost.

4.21 A number of respondents explained that customers did not want to read the minutiae of T&Cs and risks, especially on social media, and preferred to click through to further information on a website. They stated that more critical information was recalled when information in advertisements was more focused and consumers could disengage at a point where information becomes too burdensome for them to use in a meaningful way.

4.22 Some firms made the point that if consumers were able to access the T&Cs via a link, it would give firms the opportunity to present T&Cs in a more innovative and engaging manner.

4.23 One trade association stated that social media had the potential to bring a range of benefits to advertisers and consumers. In particular, it can drive competition due to lower costs compared to conventional communications channels, and the more targeted approach enabled by social media brings the consumer offers that are more suited to their requirements, in greater variety and more easily comparable.

Our response

Technological innovation has resulted in an increasing number of consumers using social media and digital services as a preferred method of communication with their financial service providers. We recognise that social media can be very powerful as a method of communication and can be used as a platform to increase consumer understanding of the financial services industry.

To be considered a financial promotion, a communication must include an invitation or inducement, focus on a regulated activity, and be in the course of business (which requires a commercial interest on the part of the communicator). Any communications outside of this are not subject to promotional rules.

We view a social media post and a website as separate financial promotions, as defined in the FSMA (s.21). We take a media-neutral approach to financial promotions, meaning that where a social media post falls into our definition of a promotion, we view it in the same way as a television advert or a website and require that it is individually compliant with our promotional rules.

FCA guidance requires that all financial promotions be standalone compliant, regardless of their form, content, location or target audience.[21] Standalone compliance is interpreted in our Social Media Guidance as being incompatible with clicking through to more extensive material. In general, click-through approaches are compliant for messages that only signpost information to provide a link to more exhaustive material, but not for inducements that are 'significant steps' in the purchase chain.

Although we appreciate that standalone compliance may result in some restrictions in the use of social media, there are strong behavioural economics arguments as to why standalone compliance may be the most appropriate approach. Therefore, at the current time, we will not be amending our Guidance.

Our research indicates that even when directly told that the 'fact' stated is untrue, people find it difficult to reappraise and update their beliefs. The fact that it is difficult to 'delete' facts from our knowledge that later turn out to be untrue makes it all the more important that promotions are fair, clear and not misleading, and that this happens at the beginning of a customer's journey rather than at a later stage.

We do recognise, however, the need to continue to keep under review our approach to social media and we remain open to the possibility that alternative innovative approaches may offer the appropriate degree of consumer protection.

21 www.fca.org.uk/publications/finalised-guidance/fg15-4-social-media-and-customer-communications-fca%E2%80%99s-supervisory
www.fsa.gov.uk/pages/doing/regulated/promo/pdf/compliance.pdf

Risk warnings and other required statements in social media

4.24 Some respondents to our DP and CFI on Barriers to Innovation criticised the requirement to include negative risk warnings in promotions for investments, making the argument that this can dilute the impact of balanced information elsewhere and result in a poor experience for consumers. Some respondents also argued against the requirement to include risk warnings at every stage, on the grounds that this can dilute the impact of the warning and result in a poor experience.

4.25 It was highlighted that the culture of risk warnings should be replaced by the objective of communicating exactly what consumers need to make educated financial decisions.

Our response

The key rule is that communications must be 'fair, clear and not misleading'. This is supplemented by guidance that says that firms should ensure promotions 'for a product or service that places a client's capital at risk' makes this clear. We have a rule requiring a balanced impression of both the benefits and the risks (COBS 4.5.2R(2)).

While there is a need for warnings in promotions for investments where consumers can lose capital, the provisions do not state that only statements about the possibility of loss are allowed. It is possible to make statements about the possibility of capital and income gains as well – so long as the overall message is 'fair, clear and not misleading'.

In effect, this means that both positive and negative aspects of a product or service must be included and that statements should not mislead the consumer.

Firms also have the flexibility to use the image advertising exclusion. Image advertising is advertising that only consists of the firm name, logo, contact point, and a reference to the activities provided by the firm.[22]

We will be undertaking further work and testing in this area and would welcome further discussion with firms on new and innovative approaches. We would encourage firms to work with us, either through the Innovation Hub or by contacting us directly.

Risk warnings in radio advertisements

4.26 We have heard concerns from a trade body in relation to risk warnings and other information required to be included in radio advertisements (such as representative examples in consumer credit advertisements). They warned that interpretation of FCA rules can lead to over-compliance by firms who add unnecessary disclaimers and risk warnings in order to 'play safe', causing consumers to disengage with the information.

22 For example, a statement such as, 'Firm X now offers mortgages, more information is available at www.FirmX.co.uk', would not be considered a financial promotion and would therefore not be subject to financial promotion rules.

4.27 Their research on financial advertising (consumer credit offers, including payday loans), demonstrated that the simpler and shorter the information, the more likely listeners were to engage with the advert and remember the important information concerning risks or specific terms and conditions.

4.28 Their research indicated that in the Netherlands and Belgium, the introduction of the catchphrase 'Geld lenen kost Geld' (borrowing money costs money) proved to be a much more effective way to ensure that consumers are aware of the risks associated with financial products.

Our response

Radio advertising can play an important role in communicating information about financial products to consumers. We will give considerations to risk warnings in radio advertisements in order to assess their effectiveness for consumers and assess alternative ways to communicate risk in advertisements.

We agree that risk warnings might be counterproductive when they become too long and complex, and we agree that there is scope to investigate firms' practices and the way that consumers listen to and understand information, to ensure better outcomes for consumers.

Annual Percentage Rates (APRs)

4.29 Some consumer organisations and other stakeholders highlighted that consumers do not generally understand how to interpret APRs, or that they may be charged a higher APR than the 'Representative APR' given in advertising.

4.30 Other respondents have pointed out that a lower APR may not necessarily mean that the product is right for the consumer.

4.31 Some respondents said that in order to enhance consumer understanding, they would welcome the FCA supplementing the requirements for firms to provide information on APRs with suitable explanations.

Our response

In the consumer credit market, all mandatory costs must be included in the APR and must be disclosed in advertising as part of the representative example where triggered. In addition, all costs (whether mandatory or optional) must be set out in the pre-contract credit information form (the SECCI) and the credit agreement. We also require an adequate pre-contractual explanation covering key costs and risks.

In a similar way, our mortgage rules standardise the way in which firms calculate the annual percentage rate of charge (APRC) for mortgages and other loans secured on land.

We agree that interpretation of APRs is an issue for consumers and further work might be required to improve consumers' understanding and enable them to make informed decisions.

The Market Study on competition and mortgage sector will consider whether the available tools for helping consumers make choices (such as price comparison websites, best-buy tables, or advice) effectively meet their needs.

5.
Next steps

5.1 Smarter communications should inform, educate and empower consumers. They can help consumers to take greater responsibility for their financial affairs and overcome inertia.

5.2 We are aiming to create a regulatory framework that supports consumer communications that are clear and simple to understand, and encourage the use of new technologies to present things in ways that interest and engage consumers.

5.3 Equally, industry has a critical role to play in improving consumer communications and we expect firms to ensure that their communication with consumers is 'smart'.

5.4 In order to achieve our goals, we intend to launch the following initiatives:

- We will *host a Smarter Consumer Communications event* to further engage with stakeholders on key issues, including Terms and Conditions.
- We will consider the issues raised around our *Social Media Guidance* through consumer testing to seek to identify innovative approaches that may address concerns especially around risk warnings.
- We will consult on *good disclosure guides*, including digital disclosure.
- We will consult to change disclosure rules, or accompanying guidance where they have been identified as barriers to Smarter Communications or Innovations.
- We will consider the use and definition of 'durable medium' in the Handbook and consult on possible updates.
- We will investigate instances where firms provide unhelpful disclosure or risk warnings to consumers that reduce the overall effectiveness of communication. We will reduce or remove unhelpful and unnecessary provisions of information when possible
- We will respond to the issues raised in the financial advice market through FAMR. We will work with the APFA, the Personal Finance Society and the Financial Ombudsman Service to help the industry develop guidelines for preparation of suitability reports to make them more accessible for consumers and reduce the time firms spend preparing them.

Annex 1
FCA examples of application of Smarter Consumer Communications

As part of our own work, the FCA is applying the principles behind the Smarter Consumer Communications initiative. We are identifying areas where consumers are not getting the right information, testing how information can be best provided and removing disclosure requirements where they are not effective or introducing disclosure/communication remedies.

Cash savings – summary box and switching box

Our market study on cash savings set out that competition in the cash savings market was not working well for many consumers. The market study also showed that firms' practices varied when providing information to consumers on their interest rates and they were not always clear about the interest rate that customers are getting.

From December 2016, new rules will require firms to provide clear information on the interest rates on their cash savings products, as well as alert consumers (for example, by text message) to changes in interest rates or the end of an introductory rate. We will also require firms to provide consumers with easy-to-understand key information in a summary box to help them compare savings accounts.[1]

We also considered the introduction of a 'switching box' in the cash savings market to illustrate to customers, in monetary terms, the potential benefits of shopping around. To test that this was the right approach, we carried out consumer testing with over 130,000 customers. The results set out in OP19[2] showed limited benefit in relation to further encouraging customers to consider their choice of account and, in particular, their provider. It will require further analysis and we may now need to consider alternative regulatory tools.

Helping consumer to understand payment accounts

The EU Payment Accounts Directive aims to improve the transparency and comparability of fee information for consumer payment accounts, including current accounts. A key element is the introduction of standardised terms and definitions to describe the most important services provided with payment accounts.

For each of the services, we tested a number of terms and a definition. We wanted to understand which of the suggested terms consumers found clear, which they found unclear, and which they most readily understood. We also asked to what extent the suggested definition was helpful, and what modifications consumers would suggest to make it clearer.

The consumer testing provided us with valuable insight into consumer preferences about the type of language used, as well as specific feedback on each of the terms and definitions we tested.

We used the findings of our consumer testing to develop a term and a definition for each of the services on the draft list. We refined these further following public consultation in summer 2015.[3]

1 www.fca.org.uk/publications/policy-statements/ps15-27-cash-savings-remedies-feedback-and-policy-statement-cp15-24
2 www.fca.org.uk/publication/occasional-papers/occasional-paper-19.pdf
3 The terms and definitions can be found in Annex 1 to FS15/4
www.fca.org.uk/publications/policy-statements/ps15-4-retirement-reforms-and-guidance-guarantee

Helping consumers make more informed decisions about add-ons

General insurance add-ons are general insurance products sold alongside another 'primary' product. These primary products include financial products, such as home or motor insurance, credit cards and bank accounts, or retail products, such as holidays, cars or phones.

In our market study[3], we found that the way in which information about add-ons is provided to consumers can have a harmful impact on the way they make decisions. Consumers are more likely to buy inappropriate or unsuitable products or receive poor value for money if they receive insufficient information about each add-on, the add-on is introduced late in the sales journey or the information is provided doesn't enable consumers to compare the 'packages' (i.e. primary product and add-ons) on offer, including the price.

We issued guidance to help firms to provide consumers with more appropriate and timely information that will allow them to make an informed choice on what, if any add-on products they need, and to identify the best package.

The guidance encourages firms to introduce the most common add-ons to consumers earlier in the sales process and make it easier to compare cost of total packages, including add-ons.

The FCA also recommends that firms give the annual price of add-ons rather than relying on monthly figures so that overall price to be paid is easily understood.

Improving transparency and better decision making at insurance renewal

We have found evidence that some consumers pay higher premiums when they renew their insurance policies, even though cheaper options are available, and that there is a lack of transparency about these price changes.

Based on findings from our research, average home insurance premiums increase materially over five years until they level out. This is despite data suggesting the cost of claims for home insurance does not increase with the length of enrolment.

Consumers may be sensitive to price when they first purchase an insurance product, but many consumers renew policies without considering other offers, giving firms incentives to discount prices for new customers and offer higher prices at renewal.

We found that disclosing the previous year's premium was the most effective way to prompt consumers to shop around, cancel or negotiate their insurance policy. This disclosure caused the equivalent of 11–18% more consumers to switch or negotiate their home insurance policy, where consumers were offered a price increase of over 5% on average at renewal.

In August 2016, we published our rules on renewal. We require firms to disclose last year's premium on renewal notices or an adjusted premium reflected any mid-term changes. We also introduced non-Handbook guidance to help firms meet their obligations towards consumers at renewal. This guidance details the importance of providing appropriate information and issuing clear communications to consumers at renewal. It further addresses how firms should treat consumers who want to switch or cancel, and the appropriateness of fees or charges for cancelling or renewing policies.[4]

We expect that our package of measures will prompt consumers to engage, shop around, and make better-informed decisions. The measures will also increase firms' focus on renewal practices, and, as a result, improve consumer outcomes and provide guidance on how firms can improve their processes around renewals.

4 www.fca.org.uk/publications/market-studies/general-insurance-add-ons-market-study
5 www.fca.org.uk/publications/policy-statement/increasing-transparency-and-engagement-renewal-general-insurance

Annex 2
Feedback on specific disclosure rules

Issue raised	Our response
CONC 3.5 Financial promotions	
a) A firm indicated that to minimise customer confusion, it does not include representative APRs or examples in post-sale promotional material. This is because the advertised rates may contradict the customer's existing rate.	If a financial promotion indicates an interest rate or an amount relating to the cost of the credit, this triggers the requirement for a representative example, in accordance with the Consumer Credit Directive (CCD). In other cases, the need for a representative APR is triggered if the promotion includes certain types of information (such as a comparative indication or an incentive). The requirements apply to financial promotions, and not to other forms of communication, although these must be clear, fair and not misleading (CONC 3.3).
b) One firm questioned the value of the representative example, as actual rates are tailored to a customer's individual circumstances, and argued that it is impracticable to include the example in certain promotions such as online banner adverts or branch poster campaigns.	As above, a representative example, containing standard information, is required where a financial promotion indicates an interest rate or an amount relating to the cost of the credit. The information must be clear, concise and prominent (we no longer require it to be more prominent than the trigger information). It is open to firms to advertise in a way that does not trigger the requirement. In addition, we have recently exempted promotions from needing a representative example or a representative APR where the credit is free of all interest and charges and so the APR is 0%.
c) One firm suggested that certain media types (e.g., online banner advertising) should be excluded from needing a representative example, provided that an APR is displayed and the example is presented at the next stage of the consumer journey (for example, prominently on a linked landing page).	The CCD requires a representative example in certain circumstances. As noted in our Social Media guidance, we take the view that a banner advert is a separate financial promotion from any linked website, and so each should be standalone compliant. We clarified in PS15/23 the meaning of the triggers for a representative APR, and that whether something, such as a statement about the speed or ease of obtaining credit, is an 'incentive' will depend upon the context and circumstances, including whether it is likely to persuade or incite a customer to apply for credit or to enter into a credit agreement.
d) One firm stated that the triggers for a representative APR are not clear, especially what is deemed to be an 'incentive'.	As noted in PS15/23, we may consider publishing further guidance or examples if this seems necessary.
CONC 4.2 Adequate explanations	
One respondent suggested that insurance companies offering monthly premium options should be able to limit the information provided to reflect the needs of the audience. They believe that consumers are interested in the monthly cost rather than all of the regulatory information which is necessary for other loans.	The CCD requires pre-contract credit information and an adequate pre-contract explanation. The former is implemented via regulations under the Consumer Credit Act (CCA), and the latter by FCA rules. The CONC rules specify the minimum content of the pre-contract explanation, and that this must be adequate to enable the customer to assess whether the product is appropriate for his or her needs and financial situation but – subject to that – leave firms discretion on how to implement the requirements.

CONC 8.3 Debt advice *CONC 8.3.2 and CONC 8.3.4* set out the requirements for the information that must be provided when giving debt advice, as well as the requirement that it also be issued in a durable medium (potentially in addition, if the advice is initially given orally). One respondent was not convinced that, in practice, this facilitates a client's decision making process.	CONC 8.3 sets out important information that must be provided to a customer from when the customer first enquires about the firm's services and in giving debt advice and, in addition, requires that debt advice must generally be provided in a durable medium, so customers can consider the advice and refer back to it in future. We modified the provisions in PS15/23 so that where a firm has not entered into a contract with a customer, and can reasonably foresee that it will not, the requirement to confirm debt advice in a durable medium is disapplied (although firms should consider providing advice in a durable medium where appropriate, for example if the advice is complex).
MCOB 3.6.15R The exemption for TV and Radio advertising means firms do not need to include a risk warning if the programming around the advert does not relate to lending. This has not been replicated across other media. Firms would welcome the exemption's extension to other media.	MCOB 3 was replaced by MCOB 3A when the UK implemented the Mortgage Credit Directive. When making this change we removed the requirement for a standard "repossession" risk warning in any advertisement.
MCOB 5.6.2, The prescribed nature of the KFI and other mortgage documents (offers, annual statements, mid-term changes) makes it difficult to ensure communications are effective and does not allow firms to make changes to the content even where they believe it is of benefit to consumers. Firms would welcome the opportunity to work with the FCA to consider whether some documents could allow greater flexibility, whilst ensuring that key elements (to aid customer understanding) are consistent across the industry.	The MCD introduces a new, tightly prescribed disclosure document, the European Standardised Information Sheet (ESIS). Firms can either have an ESIS in place or use a 'KFI+' until 2019. The introduction of the ESIS constrains our ability to provide more flexibility to firms in terms of pre-sale disclosure.
MCOB 7.5.3 MCOB 7.5 contains some prescribed wording. Firms believe that there should be greater freedom to use simple language. If the regulator requires firms to comply word for word there is a fear of the annual statement not achieving the objective of providing communications which are most helpful for the consumer.	The constraints which exist for the ESIS do not exist to the same degree in respect of post-sale disclosure. We are sympathetic with the argument related to post-sale disclosure we will consult to remove the prescribed text in MCOB7.5.3R(1)(b) and (1) (c) to instead give firms the flexibility to describe the risks addressed there. This point also applies to MCOB 7.5.4R.
Equity Release (MCOB 9.4) The rules relating to lifetime mortgage illustrations e.g. roll up of interest (MCOB 9.4.49 – 52) and projected house prices (MCOB 9.4.62 – 64) means that there is a lot of prescribed text and tables of information that are often difficult for the customer to understand. Firms would prefer to be able to present these in a different format such as the use of graphs or diagrams.	We agree that presenting information in different formats could help firms to engage better with consumers. However, consumers might find it harder to compare presentation. This is a point that is not equity release specific, it is equally relevant wherever there are rules designed to ensure that information is presented in a way that aids comparisons. Specifically on equity release we have previously explored the industry appetite for making disclosure changes but the conclusion at that time was that changes would be expensive and unlikely to be net beneficial.

MCOB 9.4.31 – 35 Respondents argued that this rule causes "Risk" to be given undue prominence in comparison to the "benefits" with an Equity Release product. Firms believe that this can "frighten" customers rather than giving them an informed and balanced view on a product that may be suitable for them. Risks are also included in the Product Brochure so the customer is also receiving duplicate information.	It is for firms to provide balanced information to consumers. The existing disclosure document distinguishes monetary benefits from other kinds, but requires the disclosure of both. The relative length of the disclosure of benefits will depend on a firm's own assessment of these, and the obligation for any information given to be clear, fair and not misleading.
COBS 16.6.3 R Firms have said it would be helpful if this rule was clarified, or expanded, to make it clear that firms can communicate with policyholders with life and pension savings products in a medium that suits them. This would help provide clarity in respect of the future communication methods being considered by providers.	This requirement comes from article 185 of the Solvency 2 Directive (and previously the Consolidated life directives) which provides the information must be provided in writing. COBS 16.6.4R sets out that when a firm provides information in accordance with COBS 16.6 it must provide that information in a durable medium. There is also GEN 2.2.14R on the meaning of "in writing" and associated guidance. As set out in the Feedback Statement, we will undertake a review of the use of the term durable medium in the Handbook and consult on possible changes within the confines of EU legislation.
COBS 4.5.5. G A firm argued that the manner in which the guidance is worded encourages a cautious approach by firms and a natural tendency towards lengthy disclosures.	COBS 4.5.5G provides guidance in relation to a requirement that comes from Article 27(2) of the MiFID implementing Directive and which is transposed in COBS 4.5.2R. Whilst noting that any changes we make to the guidance must be consistent with the European requirements that underpin it we believe that it may be possible to revise the existing guidance so as to reduce the risk of "over-disclosure". We therefore intend to consult on amending this guidance in order to: • Help firms to decide whether to include particular information in its communication; • Help emphasise the importance of fulfilling the requirement in COBS 4.5.2R by communicating information that is appropriate and proportionate bearing in mind the type of client likely to be receiving it.
KIIDS COBS 14.2.1R, and COBS 6. The UCITS KIID could be provided to investors in a paper format and made available to consumers on the website. Firms have indicated that the information in the KIID does not always match what the customer is actually getting, e.g. where the actual charges paid are discounted from the standard amount shown in the KIID. Firms would like to discuss the model portfolio at the face to face meeting, leaving it to the customer to look subsequently at the various KIIs to the extent they choose to, which could be facilitated electronically.	COBS 14.2.1AR (5) is quite clear that the KIID can be provided electronically, either as an attachment to an email or on a website that meets the standard website conditions. This is provided that the manager delivers a paper copy of the KIID to the investor on request and free of charge and makes available an up-to-date version of the KIID to investors on its website. The KIID must be provided in good time before a proposed subscription in the scheme. The KII regulation requires the KIID to include maximum figures for entry and exit charges and a statement that the investor can find out the actual entry and exit charges from their financial adviser or distributor. This is all derived from the UCITS Directive. We intend to consult on guidance in order to clarify that the distribution process should allow consumers the opportunity to access and read explanatory documents before they commit their money. The distribution process should focus on the important information, to ensure the consumer understands the key information in relation to the proposed product and its associated charges.

ICOBS 5.1.3CR Some firms argued that this rule is restrictive because it only allows firms to communicate: • Eligibility criteria, including the qualifying requirements (such as prior registration) to claim each benefit under a policy of insurance; and • Where applicable, a message on age and eligibility under a travel insurance policy.	ICOBS 5.1.3CR (together with other packaged bank account ICOBS rules) came into effect on 31 March 2013. The suite of packaged bank account related rules was introduced to ensure that consumers are in a position to make an informed decision about the insurance policies in the package, such as providing information which enables consumers to decide whether they can rely on the policies in the package to pay out in the event of a claim. The purpose of the annual eligibility statement is to remind customers to review their eligibility under each policy in the package. The requirement to provide an Annual Eligibility Statement as a standalone document is to help consumers focus on eligibility. The rule restricts what information can be provided with the statement, to avoid consumers being given other information that might distract or confuse them, when they should be thinking about their eligibility for the product. The purpose of the product information rule is to ensure that customers are given appropriate information in good time to enable them to make an informed decision.
ICOBS 6.1.5R, ICOBS 6.1.10G – ICOBS 6 Annex 2 : Some firms argued that the high level nature of this rule allows too much discretion in its interpretation, creating uncertainty about what information should be provided. This has led to a cautious approach among firms that has resulted in some long documents and incentives to over disclose.	The high level nature of this rule gives flexibility for firms to adapt their communications for example depending on the complexity of the product, knowledge and experience and ability of the firm's typical customer. The rule also allows firms to choose how to communicate that information to their customers. The accompanying guidance in 6.1.10G provides firms with more detail as to how they may choose to comply with the rule. We will consider whether it would be beneficial to produce further guidance as part of our initiative to clarify FCA's expectations in the field of communications.

Annex 3
List of non-confidential respondents

Aberdeen Asset Management

Advertising Association

Advice UK

AGE UK

Aegon

AHC (Anthony Hodges Consulting Ltd)

Association of British Insurers (ABI)

Associations of Professional Financial Advisers (APFA)

Axa UK Group

Axa Investment Managers

BIBA

British Bankers' Association (BBA)

BGL Group

British Gas

Christians Against Poverty

Compos Mentis (training) LTD

Consumer Council of Northern Ireland

Consumer Finance Association

Council of Mortgages Lenders

David Severn

Direct Line Group Risk

Digital Moneybox

Experian

Fairer Finance

FCA Consumer Panel

FCA Smaller Business Practitioner Panel

Finance and Leasing Association

Hastings Insurance Services Limited

Insuring Change

International Financial Data Services

Investment Association

Invesco Perpetual

Ipswich Building Society

YBS Group-Yorkshire House

James Hay Partnership

James's Place Wealth Management

Killik & Co LLP

Lloyd's

Lloyds Banking Group

Liverpool Victoria

MBNA Bank of America

MetLife

Moneysavingexpert

Money Advice Trust

Nationwide

Prudential

Queen Margaret University

Radiocentre

Royal Mail

RSA

Sandhurst Associates

SCM Private LLP

Standard Life

StepChange

Tesco Underwriting

The Coventry TLC

The Money Charity

Threesixty services

Toynbee Hall

UBS Group AG

UK Cards Association

UK Crowdfunding Association

Virgin Money

Wealth Management Association

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