Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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15 March 2024

By email: DP23-5@fca.org.uk

Dear Sir/Madam,

The Panel welcomes the renewed discussion prompted by DP23/5 about how to improve access to guidance and advice for consumers. However, the Panel's view is that some of the specific proposals in the paper carry a high risk of repeating the failure of previous attempts to deliver better support for consumers, and that additional ideas, based on better analysis of demand and supply side problems, are required to ensure consumers obtain better outcomes.

Our response includes a list of such approaches, including **a recommendation that HMT and the FCA explore how MaPS can be enabled to give guidance right up to the regulated advice boundary, thus removing from firms the first mover risk of working closer to the boundary themselves**. We urge the FCA and HMT to undertake a feasibility study (which could run alongside the other proposals in this DP).

We acknowledge that 'doing nothing' is also a risk – but the risks of inaction should be properly evaluated alongside the risks associated with the proposals in this DP and the risks and benefits of alternatives. The Panel has identified the following substantive risks arising from the lack of evidence underpinning the current proposals: 1. reputational risk to the FCA and Government; 2. consumers experience increased losses and/or levels of mistrust due to mis-selling, reduced protections, lack of transparency, and reduced competition. A list of the risks identified by the Panel is shown in Appendix 1.

We have three main concerns about the DP:

1. **The wrong approach:** Tailored support (TS) and simplified advice (SA) address the question *'how can firms be incentivised to give cheaper advice and better guidance to consumers with assets?'* but fail to address the equally important question '*what help do consumers want and need, and what regulatory changes are required to effect this?'*

   Both supply-side and demand-side issues are under-specified and under-evidenced. The supply side analysis focuses on cost-to-serve and liability, without quantifying either, or discussing whether technology or innovation can address them without changing the redress proposition for consumers. Demand-side evidence is partial, failing to investigate the reasons people don't invest, and susceptible to the "say/do" gap inherent when researching consumers' propensity to use a new service. A major risk of these proposals is therefore an increased supply of types of advice and guidance that fail to stimulate behaviours in firms or consumers that will improve outcomes. There is no theory of change underpinning TS and SA, no evidence base to support them, and nothing that links the proposals to the overall objectives nor to other critical metrics[1,2].

2. **The wrong problem:** Consumer inertia is the consequence of many factors, including poorly designed products and an overwhelming amount of information. The premise underpinning the DP is that consumers should be holding less cash, but the argument is not compelling given comparative rates of return[3], when considered alongside liquidity, shorter-term goals, tax and dividend treatment, investment product quality, and uncertain paths to redress. A focus on products, rather than on support, could produce a different set of solutions (see for example the default pathways put in place for pensions drawdown).

3. **The wrong approach for the stated problems:** the review seeks to tackle two particular problems:
   - Preventing consumers from self-investing in high-risk instruments. The review offers no evidence that a new offering from the existing industry will reduce the impact of finfluencers or blunt the attractiveness of crypto and other investments.
   - Making advice/guidance more accessible. There is no evidence that accessibility of advice and guidance will tackle consumer inertia. There is a high risk that the current proposals are not future-proofed against fundamental changes influencing the medium-term supply of advice and guidance e.g., robo-models, tech-models, and pension dashboards, alongside shifts in wealth accumulation caused by demographic changes. New approaches must tackle the reasons why previous attempts to reduce perceived regulatory costs and barriers in advice delivery have not opened the market.

The Panel believes there is more than one' advice gap', even around pensions, retirement and investments. Tackling accumulation in isolation is a missed opportunity.

In summary, the Panel would like to see:

- A research programme that begins with a robust theory of change or similar methodology and that evidences both supply and demand side issues contributing to the advice gap. This needs to find out the real reasons consumers struggle with different kinds of decision (as opposed to the reasons why they do not purchase advice), and what might help them
- Evidence of the costs and liability associated with giving different kinds of advice under the current regime
- Exploration of a wider range of legislative and regulatory options to address different advice gaps
- Full utilisation of FCA's sandbox to trial different approaches
- Sufficient time for this substantive programme of work to be completed. If this is a "once in a lifetime opportunity" then it is critically important to employ a considered approach. The Panel anticipates the necessary work will take a minimum of 2 years.

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[1] Stated objectives can be found on p3: to empower consumers to proactively manage their finances and to manage their risk. A stated outcomes is to prevent consumers from self-investing in high-risk alternatives. Metrics are included under the section on the Public Sector Equality Duty (para 1.23).

[2] Other relevant metrics include: 23% pension holders decreased or stopped contributions in the past six months; Income needed for a moderate retirement has increased by 38%; Retirees not withdrawing enough to live on; Nearly a quarter of people wouldn't seek financial advice even if it was free - Credit Connect (credit-connect.co.uk);

[3] Analysis from Schroders indicates that, at 5 years, the relative chance of beating inflation is 77% (investments) v 54% (cash), and at 10 years 87% v 55%. At 20 years 100% v 66%.

Yours sincerely,

Helen Charlton

Chair, Financial Services Consumer Panel

Appendix 1: The proposals contained in this DP carry several high-level risks. The Panel assesses these risks as follows:

Identified risks

Risks arising from the proposals	**Potential outcome**	**Risk Rating**
The solutions result in minimal impact because they are focussed on the supply of advice and guidance rather than on what consumers want and need, so consumer take-up is low. The solutions fail to take a holistic consumer-focussed approach, do not address consumers' likely behavioural responses, and do not address fundamental problems with products e.g., fees and charges, redress, complexity. The solutions fail to meet the ambition of the DP (for consumers to get the help they want, at the time they need it and at a cost that is affordable, so that they can make informed decisions about their finances). The 'once in a lifetime' opportunity to improve and enhance delivery of financial services to consumers is lost.	Consumers continue to experience poor outcomes/opportunities lost. Consumer protection objective is not met. Reputational damage to Government and FCA. Costs to the FCA, firms, and consumers of delivering against proposals that do not deliver good outcomes for consumers. A 'once in a lifetime' opportunity is lost.	**High**
The solutions result in minimal or adverse impact because they are not 'future-proofed' i.e., they fail to consider how changing patterns in wealth accumulation and technology/innovation will affect the supply of advice and guidance via new business models and channels e.g., TikTok, pensions dashboard, etc. They also fail to consider how the proposals will	In the medium and long-term, advice and guidance services fail to meet consumers' needs; consumers experience poor outcomes; reputational damage to the FCA.	**High**

impact on or limit a subsequent regime for decumulation advice.		
The framing and language in the DP restrict suggestion by respondents to the FCA of better, consumer-insight driven, more transformative solutions (respondents are 'boxed in' by the proposals in the DP). This risk is increased by plans to limit the testing to the proposals, tweaked only by suggested 'adjustments' arising from the DP responses.	In the medium- and long-term, advice and guidance services fail to meet consumers' needs; consumers experience poor outcomes; reputational damage to the FCA.	**High**
By focusing on Investments and Pensions there is a risk that the end proposals do not work effectively for consumers needing help around loans, decumulation or insurance. (All of which are potentially 'lower value' for firms to provide.	The final proposals do not fit the whole of the consumer engagement with FS firms and another form of help needs to be developed to meet this need.	**Medium**
Consumers take on more risk than they can bear.	Consumers experience worse outcomes; reputational damage to the FCA.	**Medium**
Mis-selling potential if targeted support and simplified advice are used inappropriately as a gateway to deliver associated products and/or services which do not deliver good outcomes for consumers.	Consumers experience increased levels of mistrust in the financial services industry; FOS levies increase; FCA supervisory costs increase, adverse effect on economic growth.	**High**
Mis-selling due to limited information used to sell to consumers, reinforced by a reduction in consumer protections.	Consumers experience increased levels of mistrust in the financial services industry; FOS levies increase; adverse effect on economic growth.	**High**
The Consumer Duty is undermined because it is	Consumer outcomes are adversely impacted;	**High**

not adequately enforced by the FCA.	reputational damage to the FCA.	
Those consumers who engage with the new regime experience negative emotions (confusion, anger, frustration) due to lack of understanding or sense of unfairness (e.g., limits of service leave unanswered questions).	Loss of confidence in financial services industry; reputational damage to Government and FCA.	**Medium**
Consumer research approach on the proposals provides false assurances about likely demand (due to the 'say/do' problem in consumer testing).	Consumers continue to experience poor outcomes/opportunities lost; reputational damage to Government and FCA.	**High**
Consumer choice is restricted, leading to minimal impact and potentially higher fees because smaller firms cannot compete.	Consumers continue to experience poor outcomes/opportunities lost; reputational damage to Government and FCA.	**High**
Minimal impact because firms segment customers by wealth and deliver services that align with these categories e.g., targeted support for wealth up to £X.	Consumers continue to experience poor outcomes/opportunities lost; reputational damage to Government and FCA.	**High**

In our response to individual questions, the Panel starts from the following premise. Please consider this as part of our answer to all questions:

We do not accept that the proposals in the paper - clarifying the boundary, targeted support, simplified advice - are the only ways to address the so-called advice gap. Many questions in this paper presuppose that these ideas alone should be advanced and asks detailed questions about how they can be developed. We think these questions should be neither asked nor answered at this stage.

In our answer to Q3, we set out a range of alternative options that should be developed and researched in the next phase of work. These include legislative and regulatory changes.

Q1: In your view, do any of the proposals outlined in this paper adversely affect different groups of consumers and why?

The Panel's view is that TS and SA are based on the wrong approach, address the wrong problems, and produce the wrong solutions to those problems. The lack of evidence underpinning these proposals presents a high risk of poor outcomes and experiences for those consumers who are the focus of these proposals in the form of increased losses and/or increased levels of mistrust due to mis-selling, reduced protections, lack of transparency, and reduced competition. The narrow focus of the DP will have a negligible impact on the vast majority of consumers seeking holistic support across a range of debt and savings products. We identify potential harm to consumers as follows:

Clarifying the boundary through further guidance – the Panel is supportive of this proposal but it must be accompanied by compelling evidence that firms and their shareholders will respond to additional clarification by operating close to the boundary otherwise this will be a wasted opportunity and consumers will continue to experience detriment because firms lack the necessary incentives to change their behaviours.

Targeted support – there is a high risk of adverse outcomes for consumers, ranging from confusion and loss of confidence in the industry to financial detriment depending on the regulatory incentives offered to firms.

Simplified advice – there is a high risk of adverse outcomes for consumers as for targeted support. It is not clear how this proposal is an improvement over previous attempts to introduce another category of advice. We have previously stated our concerns about similar variations to holistic advice in other responses, for example, CP22/24 Broadening access for mainstream investments.[4] These include assumptions about consumers' risk tolerance, the necessity of taking a holistic view of a consumer's financial situation including debt, maintaining high training standards, disclosures, and other elements of the offering.

There is an inadequate evidence base for the proposals, and specifically nothing that links the proposals to the overall objectives as stated on page 3: to empower consumers to proactively manage their finances and to ensure consumers manage their risks, nor to any of the other metrics provided in the paper, such as those listed under the section on the Public Sector Equality Duty (para 1.23), nor to the desired outcome of preventing consumers from self-investing in high-risk instruments. The specific exclusion of financial literacy as out of scope (para 1.9) ignores a significant root cause of the issue and the potential solutions.

The Panel acknowledge that 'doing nothing' is also a risk – but the risks of inaction should be properly evaluated alongside the risks associated with progressing the proposals in this DP and the risks and benefits of alternatives. A list of the risks identified by the Panel is shown in Appendix 1.

Q2: Is there a role for the 3 proposals (further clarifying the boundary, targeted support, and simplified advice) outlined in this paper? Could these work alongside existing forms of support? When responding, please include how the proposals would (or would not) work alongside each other.

Consumers do not understand the difference between 'advice' and 'guidance'. There is no evidence to demonstrate that introducing two more categories will ensure that consumers access the help they need at the right time, nor that sufficient numbers of consumers will respond in the intended way. The FCA's excellent report into consumer

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[4] https://www.fca.org.uk/panels/consumer-panel/publication/final_fscp_fca_broadening_access_for_mainstream_investments.pdf

engagement with pensions[5] shows the importance of high-quality research and the risks of making uninformed assumptions about how consumers will behave. In contrast, the ABI's recent research[6] lacks the robust evidence base necessary to support the current proposals. The current proposals may improve the *supply* of advice and guidance, but there is no evidence to suggest that they will lead to increased demand or improve consumers' outcomes.

Furthermore, there is no evidence that links the proposals to the overall objectives as stated on page 3: to empower consumers to proactively manage their finances and to ensure consumers manage their risks, nor any of the other metrics provided in the paper, such as those listed under the section on the Public Sector Equality Duty (paragraph 1.23), nor to the intended outcomes of making advice and guidance more accessible and preventing consumers from self-investing in high-risk alternatives.

The Panel's brief comments on the three proposals are:

Further clarifying the boundary: we support steps, under the Smarter Regulatory Framework, to simplify and consolidate the guidance. However, changes to MiFID are not adequately explored in this review. For example, industry asserts that the MiFID definition of a personal recommendation includes statements that might be considered generic (i.e., guidance) such as "you might consider moving some cash into stocks and shares" or "cheaper products like X or Y are available". The Panel urges the FCA to consider how changes to MiFID could improve the provision of guidance. We would also encourage the FCA to build on the approach taken during the pandemic e.g. guidance enabling product providers to warn consumers about disinvesting. We would urge the FCA to clarify 'what good looks like' and to use the Consumer Duty to support its expectations and requirements.

Targeted support: this concept, assuming it is better than consumer-driven options, needs to be robustly tested over an extended period to investigate how it is experienced by consumers, their expectations, whether it leads to the desired outcomes better than other options, the limits of its effectiveness depending on the options tested, and any unintended consequences. For example, how will consumers respond when they realise that the support applies to investment and pensions but not to general insurance, mortgages, or debt advice, and what will be the likely impact on their outcomes? The introduction of targeted support without a robust evidence base could lead, at best, to a minimal change in demand and, at worst, to confusion and loss of confidence by consumers in the financial services industry, as well as reputational damage to the FCA and Government.

MaPS already has a legal remit to deliver guidance services, and we are surprised that this role is not a central part of the DP. The FCA should use insights from MaPS to understand how they deliver a personalised journey that helps consumers to make the next steps in their decision making, which includes guiding them to regulated advice.

There could be a role for targeted support in supporting existing customers on their existing products (e.g., saving more, drawing down less, moving to cheaper funds) and this needs to be explored within the FCA's expectations of the Consumer Duty. But there are significant risks if it becomes a product sales channel, particularly if accompanied by reductions in redress. .

Simplified advice – there is a high risk of adverse outcomes for consumers as for targeted support. It is not clear how this proposal is an improvement over previous

[5] https://www.fca.org.uk/publications/research/testing-what-gets-consumers-engaged-their-pension-and-why

[6] https://www.abi.org.uk/globalassets/files/publications/public/lts/2023/thinks-personalised-guidance-summary-report-dec-23.pdf

attempts to introduce another category of advice. We have previously stated our concerns about similar variations to the advice regime in other responses, for example, CP22/24 Broadening access for mainstream investments.[7] These include assumptions about consumers' risk tolerance, the necessity of taking a holistic view of a consumer's financial situation including debt, maintaining high training standards, disclosures, and other elements of the offering. These include assumptions about consumers' risk tolerance, the necessity of taking a holistic view of a consumer's financial situation including debt, maintaining high training standards, disclosures, and other elements of the offering.

Our response to question 3 includes a list of other potential solutions, including a recommendation that HMT and the FCA explore how legislative and regulatory changes could enable MaPS to deliver holistic advice for debt, mortgages, general insurance, and savings/investments products. This recommendation is based on a consideration of the myriad of ways in which the proposals in this DP are likely to fail.

Q3: Are there are any other proposals that we should consider to help close the advice gap and how can we support the provision of more guidance? Please outline your proposal in as much detail as possible.

We welcome this question, which is arguably the most important in the paper. The support of industry is essential in order to effect change. But the industry and regulatory perspectives that underpin the proposals presented in this paper restrict the scope to supply-side issues and solutions and ignore the demand-side. The proposals will fail to achieve the intended outcomes if consumers do not respond to them and therefore, we urge the FCA and HMT to consider other options such as those listed below, including a recommendation that **HMT and the FCA explore how MaPS can be enabled to give guidance right up to the regulated advice boundary, thus removing from firms the first-mover risk of working closer to the boundary themselves.**
We urge the FCA and HMT to undertake a 12-month feasibility study (which could run alongside the other proposals in this DP).

Any 'short-list' of other options should be supported by comprehensive research to synthesise existing knowledge about consumers' attitudes and behaviours and build on these insights to fill any gaps in knowledge. Potential solutions are listed below, divided into four categories: 1. Boosting the supply of regulated financial advice; 2. Boosting the supply of financial guidance; 3. Alternatives to advice/guidance; 4. Delivering other forms of advice. Below we list examples of each of these:

<u>Boosting the supply of regulated financial advice:</u>

- Enable MaPS to provide advice in the same way that it does for debt. This would require a major change to MaPS – but the current proposals will also require some changes that have not been identified in the DP
- Review the expectations on firms to offer advice to existing customers under the Consumer Duty. Potentially remove the stipulation that the Duty will not require advice provision (PRIN 2A.1.11G) (there is an established principle that certain products must be sold with advice)
- Review the "by way of business" test within the perimeter rules/RAO to allow a wider range of activities to be undertaken by non-profit providers and consumer advocacy organisations
- Governance changes that require certain structures and processes to oversee and safeguard the consumer interest in firms' governance of their advice services (similar to IGCs)

[7] https://www.fca.org.uk/panels/consumer-panel/publication/final_fscp_fca_broadening_access_for_mainstream_investments.pdf

- Use FCA's sandbox and related services to promote the development of technology-driven advice services that are attractive to consumers
- Examine whether elements of the insurance, mortgage broking, or debt advice rules, could be adapted for other forms of advice (e.g., a demands and needs standard)

Boosting the supply of financial guidance:

- Remove any barriers to MaPS' services operating right up to the regulated boundary and make it clear that it should do so – this would be consistent with its objectives (FGCA s2(1)) and would establish best practice in the industry and remove first-mover risk from firms
- Review the effectiveness of the Covid-era guidance issued to firms about the support offered to existing customers with a view to making improved guidance broader, permanent and binding

Alternatives that recognise the challenges of engaging consumers and remove some need for additional guidance and advice:

- Automatic product upgrades where suitable and appropriate
- Simplify core products in ways that improve value and reduce complexity
- Review the Financial Promotions Regime to remove barriers to the provision of help and the improvement of consumer financial literacy
- Review the introducers' regime to remove barriers to the provision of help

Q4: Do you think that further guidance would provide more clarity to enable firms to get closer to the boundary? What scenarios, if any, do you think could be set out in FCA guidance? Is guidance needed on the scenarios in Chapter 3? Would there be any appropriate cases for Handbook rules rather than guidance being used?

Some firms claim that reluctance to get closer to the boundary is due to the high level of uncertainty about whether they might stray into giving advice without the requisite permission. This risk aversion is understandable, but without evidence on FOS complaints and uphold rates this assertion should not be used as the basis for changes to the regulatory regime. However, if this risk aversion does exist then it could be mitigated through increased competition and by setting appropriate expectations under the Consumer Duty, and further reduced by MaPS leading the way with its statutory guidance right up to the boundary

We therefore urge the FCA to work with those firms that demonstrate a higher risk appetite in order to exploit the full potential of greater clarity. Insights from MaPS, based on its legal remit to deliver guidance, should also inform this work. However, these approaches will not address the risk of firms giving bad advice, whether that advice is full, simplified, targeted, basic, streamlined or anything else.

While paragraph 2.9 of the DP makes a passing reference to firms' concerns about the commercial viability of providing advice to 'mass market' consumers, it is clear that the primary aim of the proposals is to incentivise firms to change their business models in line with reduced regulation. However, the medium-term is likely to see changes that will force a shift in business models and alter the market regardless. These will include changes in wealth accumulation (e.g., the shift from DB to DC schemes and changing patterns of home ownership) accompanied by renewed attempts to revitalise robo- and tech-models once open finance matures in the UK. Other channels e.g., TikTok are already showing an alarming increase in appeal to younger generations[8], and represent

[8] https://www.wallstreetzen.com/blog/stocktok-craze/

both a risk to the likely success current proposals as well as a major concern about consumer detriment. The FCA has not provided any evidence to demonstrate how their proposed solutions are aligned with changing patterns in wealth accumulation or technological solutions, both regulated and unregulated.

Regardless of the root cause of firms' reluctance to get closer to the boundary, the Panel believes that further clarity, together with clear expectations of the Consumer Duty (particularly in relation to the avoidance of foreseeable harm), dissemination of best practice, and specific changes to regulation to prevent unintended consequences, could greatly increase the quality and quantity of help that firms provide to their customers.

We are supportive of steps to simplify and consolidate the guidance, particularly in relation to MiFID (e.g., redefining the meaning of a 'personal recommendation'). The Smarter Regulatory Framework also provides a new opportunity to change the MiFID definition where it is shown to be problematic. We would also encourage the FCA to build on its widely applauded approach taken during the pandemic e.g., guidance enabling product providers to warn consumers about disinvesting.

The FCA should use insights from MaPS to understand how they deliver a personalised journey that helps consumers to make the next steps in their decision making, which includes guiding them to regulated advice.

Q5: In your view, is there value in simplifying existing guidance? If so, what are the key relevant areas of PERG and other guidance that the FCA should focus on?

We are supportive of steps to simplify and consolidate the guidance, particularly in relation to MiFID (e.g., redefining the meaning of a 'personal recommendation'). The Smarter Regulatory Framework also provides a new opportunity to change the MiFID definition where it is shown to be problematic. We would also encourage the FCA to build on its widely applauded approach taken during the pandemic e.g., guidance enabling product providers to warn consumers about disinvesting.

In August 2023 the FCA published clarification for firms under the existing framework[9]. We would be interested in understanding how the insights arising from this clarification have informed the current proposals.

Q6: Do you support the concept of targeted support, and do you support developing a regulatory framework to deliver it? If not, why not? Are there any key features (in addition to those discussed below) that you believe targeted support should include?

The case for targeted support has not been made, and we have the following concerns about it:

- There is no evidence that targeted support will ensure that consumers obtain the help they need at the right time nor in sufficient numbers to achieve the stated objectives
- There is no evidence that firms will adopt targeted support with scale. We doubt that the proposed limitations on FOS's scope are feasible, or that even if they are that they will make the case for firms to invest in systems, training, literature and other infrastructure needed to deliver it
- Targeted support as set out in these proposals is not holistic because it covers only investments and pensions. By omitting consideration of general insurance,

[9] https://www.fca.org.uk/firms/helping-firms-provide-more-support-customers-making-investment-decisions

mortgages, and debt issues is unlikely to provide the help that consumers want or need, or reliably deliver actions that improve consumers' outcomes
- Targeted support as outlined in these proposals may lead to consumers experiencing negative emotions (confusion, frustration, anger), which could in turn result in a loss of confidence in the financial services industry and reputational damage to the FCA
- Targeted support can be delivered by the fiduciaries of pension schemes or their agents, all of whom are outside the FCA's regulatory perimeter; the implications of this need to be considered
- The use of cross-subsidies to fund targeted support will undermine transparency
- It is not clear how targeted support will work alongside other forms of advice and guidance. Consumer journeys, signposting and referral paths are unclear

Firms might view targeted support as a way to discharge their responsibilities under the Consumer Duty "support" outcome. As stated in answer to Question 2, there could be a role for targeted support in supporting existing customers on their existing products (e.g., saving more, drawing down less, moving to cheaper funds) and this could be further explored alongside reviewing covid-era guidance and further clarifying the boundary. But there are significant risks if it becomes a product sales channel, particularly if accompanied by reductions in redress.

An evidence-based approach to the concept of targeted support would need to test the following:

- Categories of consumer (e.g., existing customers)
- Categories of situation/product (e.g., maximising pension contributions over time, moving to cheaper alternative funds, sweeping from cash to stocks/vice versa under prescribed conditions)
- Types of firm (e.g. not-profits)
- Types of support (e.g., regular reviews, not just new product sales, consumer education)
- Governance/charges/incentive arrangements

Note that this list is inexhaustive and intended to demonstrate the risks associated with proposals that are not based on consumer research. The Panel does not believe that targeted support should be tested with consumers unless other options prove unsatisfactory. Trials of any evidence-based proposals could be conducted in a sandbox-style environment, where firms operate versions of the envisaged model under enhanced supervision, with undiluted redress requirements, data capture to support an independent evaluation and the full force of the Consumer Duty available. Firms could develop governance and cost-recovery models themselves, which would be evaluated for adverse sales incentives and other problems. Any such, a trial would need to run for months to years in order to enable a full evaluation of costs, benefits, and unintended consequences.

Q7: What types of firms do you think would be well placed to provide targeted support?
and
Q8: Do you think there should be restrictions on the types of firms allowed to provide targeted support, and why?
and
Q9: Do you agree that the scenarios outlined are appropriate for a new targeted support regime? Please suggest any other specific scenarios where targeted support might be appropriate and could benefit consumers.

As the case for targeted support has not been adequately evidenced, we do not believe it is helpful to speculate about the types of firms that should provide it nor to offer scenarios that lack the specificity necessary to facilitate a robust assessment of likely outcomes, risks and unintended consequences. We do not believe the business case for targeted support has been made. The Panel believe the industry will always favour wealthier customers over the mass market, and other business lines – lending, insurance etc – will remain more attractive than any form of advice-giving.

MaPS already has a legal remit to deliver guidance services, and we are surprised that this role is not discussed in the DP. The FCA should use insights from MaPS to understand how they deliver a personalised journey that helps consumers to make the next steps in their decision making, which include guiding them to regulated advice when appropriate.

Q10: Do you agree with the high-level minimum requirements for a proposed new standard for targeted support? Please explain your answer.

The proposed standards are vague and the safeguards for consumers are not clear. The Panel urges the FCA to draw on existing insights and undertake robust research with consumers to understand the type of help they need and want before consulting on the delivery and regulation of an evidence-based set of proposals.

Paragraph 4.17 states 'We want to ensure that targeted support is widely accessible to the mass market and so benefits the widest range of consumers". There is no evidence to support the presumption that Targeted Support is a strong enough idea to merit adoption, let alone adoption at scale.

Paragraph 4.18 proposes that a standard of suitability is underpinned by a 'specific outcome for "people like you"'. The meaning of 'people like you…with the same high-level needs, characteristics and objectives' in this context is unclear and potentially confusing to consumers.

There is no evidence to demonstrate:

- Consumers' understanding of and attitudes towards the phrase 'people like you' in the context of the information they have provided in order to receive targeted support: e.g., does it sound like marketing, is it genuinely helpful, or does it confuse them?
- Consumers' behavioural responses to the phrase 'people like you' – does it increase the likelihood that they will use the targeted support to make a decision? Are they more likely to drop out of the process due to confusion? Will this process soften them up to pay for unnecessary and expensive simplified or holistic advice?
- What safeguards will consumers be advised of during the support process, how will their understanding be tested, and how does this affect their attitudes and behaviours?
- Is there evidence that consumers want a one-off transactional model of help, or do they need the assurance that their needs will be proactively reviewed over time, as implied by the Consumer Duty?
- How will the FCA evaluate the success of targeted support in a trial setting compared to other options?

Note that this list is inexhaustive and intended to demonstrate the risks associated with proposals that are not based on consumer research. The Panel does not believe that targeted support should be tested with consumers unless other options have been proven to be unsatisfactory.

MaPS already has a legal remit to deliver guidance services, and we are surprised that this role is not discussed in the DP. The FCA should use insights from MaPS to understand how they deliver a personalised journey that helps consumers to make the next steps in their decision making, which includes guiding them to regulated advice.

Q11: Are there any regulatory rules or guidance that apply to your firm which could impact on your ability – positively or negatively – to contact consumers and offer them targeted support? Please specify which rules and explain the impact.
and
Q12: Which of the 3 options for types of suggestions would be most impactful under targeted support, and why? Are there any other options we should consider?

These questions presuppose that targeted support should form part of the solution.

The Panel is particularly concerned about any proposals to transfer liability from firms to consumers. In considering the responses from industry, the FCA should reflect on 1. Whether it is possible to limit FOS's scope in relation to what is fair and reasonable in all the circumstances when targeted support is offered 2. variances in firms' risk appetite, 3. opportunities for and likelihood of new business models that will increase competition regardless of these proposals, 4. the potential role of the Consumer Duty in aligning firms' behaviours with a functioning market for guidance, 5. the growing influence of other channels such as TikTok.[10]

Q13: How should communications to consumers be framed so that they can effectively understand the targeted support they are receiving? Please give examples.
and
Q14: Do you agree that targeted support should not necessarily be subject to explicit charges? If so, how should firms be remunerated, and why?
and
Q15: If you agree with Q14, what safeguards and disclosure requirements should be in place to manage any conflicts of interest arising from enabling targeted support to not be subject to explicit charges, and why?
and
Q16: Do you agree that there should be no limit on product and investment range or monetary value limits (beyond those applying to the Review as a whole and in the retail distribution space more generally) applied to targeted support? If you disagree, what should the limits on product and investment range and monetary value be and why?
and
Q17: Are there any other limitations which should be imposed on targeted support? Please explain your answer.
and
Q18: Do you agree with the disclosure objectives for targeted support? Are there other factors that consumers should understand when making decisions in relation to targeted support?
and
Q19: Do you consider an 'outcomes based' or 'prescriptive' approach to rulemaking most appropriate in underpinning disclosures for targeted support? If a prescriptive approach is thought more appropriate, please outline what detail you would like included and why?
and

[10] https://www.wallstreetzen.com/blog/stocktok-craze/

Q20: How should targeted support be delivered from a regulatory and legislative perspective and why? Which regulatory and legislative mechanism should be used to deliver targeted support, and why?

These questions presuppose that targeted support should form part of the solution.

The Panel questions the appropriateness of exploring the framing of communications, pricing models, safeguards and disclosure requirements, limits on product and investment range or monetary value, other limitations, disclosure objectives, appropriate regulatory regimes, or appropriate regulatory and legislative delivery mechanisms before demonstrating that targeted support is the best way to help consumers.

There is a wealth of independent evidence on consumers' behavioural responses to different types and framing of communications (e.g., from NEST and academic sources). The Panel urge the FCA to use this evidence as the basis for any further testing, rather than rely on responses that are unevidenced, biased and/or methodologically flawed.

With respect to the specific question of explicit charges, the Panel is against any unwinding of the principles of Retail Distribution Review (RDR), especially on the weak evidence base in this paper:

- This issue is most appropriately explored via robust research with consumers that simultaneously explores consumer understanding of liability and safeguards should things go wrong
- One-off charges reinforce a transactional approach that is unlikely to meet consumers' ongoing requirements
- The suggestion of 'cross-subsidies' to fund targeted advice is concerning due to the lack of transparency involved in this type of business model. Which group of consumers will pay for the supply of targeted support, how much, and how will they know? It also calls into question the assertion that targeted support will be designed around a target market. Are the needs of the subsidising segments sufficiently similar to those of the subsidised segments that they can form a single target market?
- There is a risk of mis-selling if targeted support is used to 'soften up' consumers for unnecessary and expensive advice
- Targeted support could lead to consumers receiving spam mass-market campaigns from various firms

The recent ABI research[11] does not address the question of charges because the participants were asked only about their 'willingness to pay' (the amount is not included) and were not provided with sufficient information to enable them to make an informed decision. It is highly likely that consumers' behavioural responses to particular offerings will be influenced by their (lack of) understanding of safeguards and disclosures. The Panel's research into equity release indicates that consumers may incorrectly blame themselves rather than the quality of the advice for poor outcomes[12], which is a warning signal for a potential mis-selling scandal.

Q21: Do you think the scenarios outlined for consumers considering investing a lump sum or reviewing an existing investment are appropriate for a new simplified advice regime? Please suggest any other scenarios where simplified advice might be appropriate and could benefit consumers.
and

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[11] https://www.abi.org.uk/globalassets/files/publications/public/lts/2023/thinks-personalised-guidance-summary-report-dec-23.pdf
[12] https://www.fca.org.uk/panels/consumer-panel/publication/final_position_paper.pdf

Q22: Do you agree that wealth accumulation products should be in scope of simplified advice, and why? Are there any wealth accumulation products that you feel should be included or excluded, and why?
and
Q23: Do you agree that pensions decumulation should be out of scope for simplified advice, and why?
and
Q24: Do you consider that a cap of £85,000 is the correct investment limit for simplified advice? If not, please suggest an alternative limit, and explain why this would be more appropriate.
and
Q25: Do you consider that simplified advice should allow firms to provide repeated instances of transactional advice to a customer but exclude ongoing and periodic review services? Please state the reasons for your answer.
and
Q26: Could including the information to be collected from a client in Handbook rules provide the legal certainty for firms to offer a simplified advice service, while still providing appropriate levels of consumer protection? How might that be delivered? Please explain your answer.
and
Q27: Do you have any suggestions for how to make it easier for consumers to pay for simplified advice, without undermining the changes made as part of the RDR?
and
Q28: Do you agree with our proposed T&C framework for simplified advice? Do you agree that firms and advisers wishing to provide simplified advice on more than one product type should comply with the same T&C standards as for holistic financial advice?
and
Q29: If the proposals in this paper are taken forward, do firms consider there should be any amendments to the Dispute Resolution sourcebook to enable them to provide different levels of support? If so, please describe them.
and
Q30: We welcome views on whether stakeholders believe the scope of FSCS protection should include the 3 proposals in this paper, or whether FSCS protection might be more appropriate for some proposals or products than others, and why.

These questions presuppose that the proposals in this paper are the 'correct' ones.

The Panel questions the appropriateness of exploring the scope of suitable products and the 'correct' investment limit as well as the suitability of transactional advice, Handbook rules, payment options, amendments to the DR sourcebook, and FSCS protection before demonstrating that that simplified advice is the best way to help consumers.

The proposed solution does not consider the effect of market trends on the supply of advice and guidance. For example, changing patterns in wealth accumulation (e.g., the shift from defined benefit to defined contribution pensions; declining property ownership) and technology/innovation could fundamentally impact competition via new business models. We also raise the risk of a mis-selling scandal if transactional advice is used to 'soften up' consumers up for unnecessary and expensive holistic advice.

The Panel have the following additional concerns:

- The issues around how to decumulate a pension fund are complex and personal. A full range of choices needs to be considered and the advice needs to be regularly reviewed and updated. Consumers are likely to have greater need for

help during decumulation than accumulation, but there are no equivalent proposals to help consumers who are in decumulation.
- The current proposals, should they be implemented, could adversely influence or limit subsequent proposals to help consumers who are in decumulation.

We have previously stated our concerns about similar variations to holistic advice in other responses, for example, CP22/24 Broadening access for mainstream investments.[13] These include assumptions about consumers' risk tolerance, the necessity of taking a holistic view of a consumer's financial situation including debt, maintaining high training standards, disclosures, and other elements of the offering.

Q31: What examples of consumer support do firms want to provide to consumers, particularly in light of our proposals, but feel they are unable to do so because of PECR direct marketing rules or other data protection rules? Evidence on the consumer outcome being sought and, where appropriate, reasoning for why direct marketing rather than other communications is necessary for delivering this outcome, would be welcome.

Responses to this question might provide additional information about the potential willingness of firms to supply consumer support under a different theoretical regulatory regime but, without insights into consumers' likely attitudes and behaviours, the answers cannot provide any evidence about the equivalent change in demand necessary to improve consumers' take-up of support nor about the risks and unintended consequences.

Q32: What steps could be taken to provide reassurance about the electronic communications that firms can provide to give greater consumer support, in compliance with PECR direct marketing rules? Do you consider a similar approach to the joint FCA / ICO letter on savings rates may help provide additional clarity on this?

This question presupposes that the proposals in this paper are the 'correct' ones. The Panel is of the view that 1. the problem statement underpinning this DP is incorrect; 2. even if the problem statement is correct, these proposals have not been evidenced as the best way to address it; and 3. the industry/regulatory-led approach taken in this DP introduces a number of high-level risks to consumers, the FCA and Government.

Q33: How can we design the policy proposals to best strengthen competition in the interests of consumers? Are there any risks or perverse incentives we should be aware of? Please provide specific examples.

The current proposals carry several risks in relation to competition:
- A reduction in the supply of independent advice because smaller firms cannot compete with vertically integrated firms
- Failing to address the appeal of channels offering non-regulated advice and guidance (e.g., TikTok) continues to grow[14]

Q34: How do trustees feel the advice boundary restricts the support they want to give, including around decumulation, taking into account DWP's proposals? Do any other regulated activities or regulatory requirements constrain the support trustees wish to provide? Please give examples.
and

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[13] https://www.fca.org.uk/panels/consumer-panel/publication/final_fscp_fca_broadening_access_for_mainstream_investments.pdf
[14] https://www.wallstreetzen.com/blog/stocktok-craze/

Q35: Are there any considerations concerning the investment advice boundary for non-authorised persons you wish to raise?

Under these proposals, targeted support can be delivered by the fiduciaries of pension schemes or their agents, all of whom are outside the FCA's regulatory perimeter; the implications of this need to be considered.

Pertinent to these proposals are comments made by Louise Davey, the TPR's Interim Director, Regulatory Policy, Analysis and Advice at an industry event last year: 'trust-based schemes are often too conservative in their practices even where the boundary exists already.'[15]

[15] https://www.thepensionsregulator.gov.uk/en/media-hub/speeches-and-speakers/helping-savers-to-assess-their-dc-pensions-savings-the-seven-challenges