

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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By email: dp24-3@fca.org.uk

Dear Sir/Madam,

Financial Services Consumer Panel response to FCA DP24/3 Pensions: Adapting our requirements for a changing market**

The Financial Services Consumer Panel (the Panel) welcomes the opportunity to respond to the FCA's consultation relating to enhancing the pension system to best support consumers in a changing market, with a specific focus on:

- The regulatory framework that governs projections,
- Requirements for defined contribution (DC) transfers and consolidation, and
- Self-invested personal pensions (SIPPs)

There have been previous Panel submissions relating to pensions in the past year; we invite the reader to also review those submissions.¹²³

It is important to note that the Panel is an independent panel that represents the interests of consumers of financial services including small businesses. Many of the questions in this discussion paper are directed at the industry, to which the Panel is not able to directly respond. However, where possible, we have reflected on the questions in regard to a consumer perspective. Please find our responses in the attached Annex.

Yours sincerely,

Helen Charlton
Chair, Financial Services Consumer Panel

¹ [20240925 final fscp response to hmt pensions investment review call for evidence.pdf](#)

² [20240508 final fscp response to fca cp 24-4 pensions dashboard service firms.pdf](#)

³ [20240419 final fscp response to dwp options for db schemes.pdf](#)

Annex:

Question 1: What are your views on whether, and if so how, our rules should change to allow consumers to benefit from engaging digital tools and modellers with sufficient protections from the risks associated with projections? We invite stakeholders to respond using the prompts suggested throughout Chapter 3.

We agree with the key harms listed but believe that it is not exhaustive. For example, information that is overly-complicated or voluminous also pose a risk (as discussed in para 3.16). Harms can also arise from inherent biases and also if consumers, particularly those with vulnerabilities, misinterpret the results.

Harms can be placed into one of two types of outcome: those that cause consumers emotional or psychological harms such as confusion or anxiety; and those that lead them to take actions that could lead to financial harm. The FCA should ensure that firms focus on mitigating the risks associated with any poor outcome (foreseeable harm), regardless of its source or nature. Effective risk mitigation will require robust testing to understand consumers' responses to the presentation of data (a large amount of academic research already exists in this area).

For this reason, we also agree that all FCA-regulated firms should be in scope of a future framework for direct-to-consumer digital tools and modellers. Firms should also bear in mind that not all consumers will want to use these tools and should therefore also include alternative means for them to obtain equivalent support. Digital applications are evolving very quickly so including all firms will help to future-proof the framework.

However, the question asks only how the rules should change to allow consumers to benefit from digital tools and modelling. Changing the rules does not automatically mean that consumers will make greater use of such tools and models, nor in ways that will enable them to achieve their financial objectives. Any critical choices in the design of the framework should be evidenced with consumers' behavioural and emotional responses. The FCA should be ambitious in its intent that consumers actually use these tools and models to support their financial objectives.

Such models and tools will gain traction as mass-market ways to support consumers only if there is a comprehensive understanding of how different demographics will interact and benefit from their use. Regulators can produce independent research from which all firms, especially small firms, can benefit and which will greatly speed up the process for producing an effective framework. In addition, as noted in 3.21, given the potential for confusion that will occur if projections by different modellers yield materially different results, there needs to be a drive to

standardise definitions or to inform consumers why there might be differences.

Models and tools that are underpinned by a robust framework are more likely to support the FCA's secondary international competitiveness and growth objective than a framework that leads to loss of consumer confidence or trust.

Success in this area has the potential to support the FCA's aims that Targeted Support becomes a mass-market solution particularly if the models and tools provide explanations or interpretations that are easy to understand and act upon (or not). Simple explanations will help to address biases and can improve understanding about the various risks involved in particular pension decisions.

While the Consumer Duty will provide an overarching framework for firms, the FCA will need to provide more detailed guidance due to the scope of this area and potential for consumer confusion.

Question 2: What are your views on our DC pension transfers and consolidation discussion in Chapter 4? We invite stakeholders to respond using the prompts suggested throughout Chapter 4.

Transfers and consolidation:

As the FCA notes, automatic enrolment has led to a substantial increase in pension savings, and it's also noteworthy that the statistics show that the majority of employees will change their employer many times over their career, which may well lead to a substantial number of pension pots for each employee. It is likely, and generally advisable, for the saver to eventually consolidate these pensions. Many of these savers will not be in a position to know where to find or be able to pay for advice, and therefore, may not make appropriate decisions regarding their pension consolidation or a pension transfer.

Furthermore, as the demand for relevant services increases, there will be more firms offering these services. We are concerned that the more firms there are, the less closely they can be supervised, and the greater likelihood that some will resort to behaviours that cause harm to consumers.

In this light, we fully support the FCA objective to ensure that consumers fully understand the advantages and disadvantages as well as the full set of risks involved in the decision to transfer or consolidate a pension or pensions. We believe that the more avenues where this information is presented to the saver up to and at the time of transfer or consolidation, the more likely the consumer will be to take an appropriate course of action. This also means that the information must be consistent;

otherwise, the consumer will be confused and is likely to take the wrong action. Therefore, the FCA must engage to ensure that all firms involved with a saver's pension transfer are required to provide relevant information re: the costs and benefits in a manner that offers easy comparison. As noted in the discussion paper, we would urge the FCA to either encourage the industry (or MaPS) to take action to develop a standardised comparison tool (along with appropriate FCA firm oversight) or provide guidance. Regardless of the course of action, the communications relating to pension transfers must be subject to rigorous consumer testing. We are also mindful that independent sources of information are more likely to be trusted by consumers, but that should also be confirmed by research.

Incentives:

The FCA should start with a presumption that incentives have a distorting effect, both for consumers and the sector more broadly. This question may encourage some firms to present their data in a positive light. Alternative evidence can be obtained through 1. Complaints data 2. FOS data 3. Testing with consumers to ensure that they understand and accept the role of incentives, are aware of alternative (cheaper) options, and can switch or change easily.

Service efficiency:

First, it's important to note that much has changed since the Pension Schemes Act 1993. This was at a time when a pension transfer was largely manual. With the current level of automation, a 6-month completion period is no longer acceptable, and is likely to result in harm. Given that the data available to the FCA shows that it is possible to accomplish this within a much shorter time frame, the FCA (or government) should consider a multi-firm review or consultation to identify a more appropriate period for completion, considering the various issues noted in paragraph 4.28. To further support data collection, the FCA should require all regulated firms to report information relating to ceding times to the FCA, either averages or times exceeding an agreed threshold. And in addition, FCA Supervisors should be monitoring this data, along with complaints data to determine whether a firm is potentially in violation of the Consumer Duty, with appropriate FCA action depending on the results.

Question 3: What are your views on the spectrum of SIPP products available, ensuring they are offered to the right consumers and the differing support needs of consumers across the range of SIPP products? We invite stakeholders to respond using the prompts suggested in paragraphs 5.14 to 5.18.

The Panel does not take a view on the spectrum of SIPP products that are available, but does feel strongly that providers must properly understand their target market in compliance with the Consumer Duty. They must be able to document how the product will serve their customers, the associated costs, the risks that are involved, how those risks are mitigated, and what consumer metrics and testing will support the delivery of the expected outcomes. They must also be able to demonstrate that their customers actually meet the parameters of that target market definition. The Panel also takes the position that self-certification alone cannot be used to qualify investors in higher risk or more complex investments. In addition, firms must have diligence mechanisms in place to ensure that the investor is appropriately qualified.

As part of their target market assessment, a firm must also identify the support it should provide to customers in order to meet the expectations of the Consumer Duty. This is likely to vary significantly between the different types of products, as described in paragraph 5.11, in addition to the level of sophistication of the customer. The firm should then have complaints and other monitoring in place to ensure that customers are getting the right level of support.

Question 4: What are your views on setting out the due diligence obligations that already apply to SIPP operators in more detailed Handbook rules? We invite stakeholders to respond using the prompts suggested under paragraph 5.29.

The Panel does not object to the FCA setting out due diligence obligations in more detailed Handbook rules. However, the Panel believes that the FCA must place greater emphasis on using its supervisory and enforcement tools for firms that are not complying with obligations set out elsewhere. If firms are not following existing guidance as noted in paragraphs 5.23 and 5.25, more explicit rules are less likely to encourage changes whereas FCA attention directed at firms that are not meeting the standards should incentivise the proper behaviour. The FCA should continue to follow up with firms that have identified problems and perform multi-firm reviews to identify any new areas of concern. In addition, the FCA must ensure that firms are able to meet all standards prior to authorisation.

Question 5: What are your views on our proposal for a more prescriptive approach to be applied across all SIPP operators in relation to the arrangements in place for pension scheme monies? We invite stakeholders to respond using the prompts suggested under paragraph 5.44.

The Panel would suggest that all SIPP operators should comply with the Consumer Duty and client money rules if they have any associated responsibility. In addition, the Panel would suggest that any third party that is part of the service should be authorised and subject to the same; therefore, the use of unauthorised trustees should be prohibited.

Given that there is a substantial volume of published FCA information about client money, the Panel is concerned that firms engaging in poor practices have chosen not to avail themselves of this information and / or are intentionally circumventing it. Furthermore, much of the guidance is simply good business practice. Therefore, once again, failures should result in supervisory and / or enforcement action by the FCA. More prescriptive rules may support the FCA in these cases. And once again, the FCA should ensure that firms meet appropriate standards prior to authorisation.

Question 6: What are your views on our proposal for a more prescriptive approach to be applied across all SIPP operators in relation to the arrangements for scheme assets? We invite stakeholders to both respond to both questions using the prompts suggested under paragraph 5.55.

The Panel believes that all service providers contributing to a SIPP service, including custodians, third-party administrators and anyone providing valuation services, should be familiar and comply with the Consumer Duty and other relevant FCA principles. The party contracting with the customer should verify that this is the case. This can be supported by its own audit or based on independent audits by qualified professional firms.

In order to ensure that firms are following good practice, the FCA should either provide clear guidance or rules as to expectations relating to the nature and frequency of reconciliations, valuations, and independent audits. Periodic random multi-firm reviews should support this, which should then be followed by supervisory or enforcement action when indicated.

Question 7: If you have received complaints about any of the issues in relation to scheme assets, please outline if you think we should make any new rules or clarify existing rules to address them. Please be specific about which rules you would want us to explore further.

No comment.

Question 8: Do you have any views on a) what the new (additional) costs and burdens would be to firms; and b) any unintended consequences in relation to consumer harm that we should consider when developing our approach?

The Panel takes the view that any firm that wants to provide a service should be aware of and follow good business practice. The FCA rules and guidance are designed to provide visibility of good practice across the regulatory perimeter, and firms should utilise this information. There is a serious question as to whether a firm should be authorised to perform regulated activities if it does not understand and / or cannot afford to implement good business practice. This should be established by the FCA pre-authorisation and through the supervisory process. The Panel does support the FCA's recent proposals to support new applicant firms starting the journey.

Question 9: Are there any other harms not mentioned in this paper that you think will have a significant impact on the SIPPs market going forward?

The paper has not covered the decumulation stage of SIPPs. This is a critically important element, and any changes to the framework should consider the end-to-end customer journey. It is fairly obvious from some of the examples provided in the paper that the decumulation stage is likely to have material problems as well. Again, the FCA should do market studies or multi-firm reviews to identify if this is the case.