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Dear DWP and FCA,

**Financial Services Consumer Panel response to:
CP26/25 The Value for Money Framework: Consultation on draft
regulations and draft FCA rules**

The Financial Services Consumer Panel (the Panel) welcomes the opportunity to respond to the joint FCA and DWP consultation paper (the CP) titled The Value for Money Framework: Consultation on draft regulations and draft FCA rules. The Panel is a statutory body set up under the Financial Services and Markets Act 2000 to represent the interests of financial services consumers (we do not represent individual consumers). 'Consumers' includes private individuals as well as small businesses. We are independent of the Financial Conduct Authority (FCA).

We are strong proponents for ensuring that regulatory treatment is equivalent for the same regulatory risks regardless of regulator. Furthermore, given the critical importance to consumers, pensions and their protections are a key theme for the Panel. For these reasons, we believe it is important for us to respond to this joint FCA and DWP (the regulators) consultation.

The Panel wholeheartedly agrees with the intention of the statement in the Ministerial Foreword "to put the returns to savers centre stage in our pension landscape". We very much support the DWP and FCA efforts to ensure that pension members are receiving Value for Money (VfM) for what is one of the biggest and most important life topics for consumers: their pensions.

We have answered the questions in the Annex below, but we do also wish to highlight our key concerns, which primarily fall within two themes: emphasis on returns and the implementation timeline.

Emphasis on returns

The Panel agrees that returns on the investment assets are a critically important component of a VfM determination. However, we reiterate that, for us, the VfM

framework has a broader emphasis than simply prioritising returns. The protection of pension assets over a member's life is also a critical factor. Superior returns at 30 years to retirement (YTR) is meaningless if no assets are left at 0YTR. In addition, when it comes to something as important as a member's pension, a positive user experience is also essential.

The Panel fully agrees that many firms have historically focussed on costs to the detriment of the best possible outcomes for their members, which should change. However, the Panel has a pressing concern that the pendulum will swing in the opposite direction where the highest possible returns become the focus which then creates substantial risk in a downturn. We would like to believe that information aggregated across schemes will minimise that, but we urge the regulators to monitor for the inappropriate taking of risk at both ends of the scale. The CP clearly indicates that the regulators will focus on schemes with performance at the bottom of the scale, which we agree is right. However, we believe that the regulators should also actively engage with firms at the top of the scale to ensure that they are not jeopardising members' assets over the long term.

We are surprised that better consumer engagement metrics still could not be established due to a lack of consensus from the industry. Whilst the Panel fully supports involvement of the industry in the development of these metrics, it is unlikely that all schemes will be happy with whatever the final determination. We suggest that it may be less contentious to include metrics that accomplish multiple and broader purposes, e.g., the number of queries as a result of the Pension Dashboard or the number of communications sent with a link to Pension Wise. The Panel suggests that the regulators organise workshops with schemes, and if consensus still can't be reached, the regulators will then need to mandate a small set of appropriate consumer engagement metrics, allowing schemes to add clarifying narrative as and when needed.

Implementation timeline

Given the importance of this work and that this appears to be the last consultation before implementation, the Panel was quite concerned by the original deadline for responses over the summer holiday period; therefore, we very much appreciate the extension of time to fully review the consultation and to submit our response.

We realise that the short timeline may be because the proposed implementation date of the VfM framework is fast approaching. However, we would prefer to see the implementation delayed rather than rushed (but phasing as explained is the next best option). Otherwise, there is the risk of compounding costs and / or unintended consequences. Programmes of change incur costs which are likely to be passed on to consumers (impacting VfM) and change brings risks and trade-offs. We also note that there are instances where the proposals in CP24/16 were modified in CP26/1, but CP26/25 proposals are reverting back to CP24/16 proposals (and being consulted again). Furthermore, significant changes to

proposals are included in this CP, in some cases because of the recognition of serious concerns, e.g. impacts to competition. The Panel recognises that there are many dependencies for this important effort, but we feel that it is far better that the VfM framework achieves its intended objectives and benefits from the beginning rather than addressing unintended consequences post implementation.

Given the timing urgency, we suggest that the regulators convene workshops to specifically discuss and resolve outstanding issues. Given that it is a challenge for organisations that represent consumers to respond to a lengthy consultation in the best of times, we would suggest that these workshops include all stakeholders, including those representing consumers.

The Panel also notes that there are several ongoing pension-related consultations. We suggest that this work, such as Guided Retirement, is very likely to have direct or indirect impacts on the VfM framework. It is critically important that conflicts, unnecessary complexity, or the introduction of confusing standards is avoided. Therefore, it is imperative that the regulators align these various initiatives as backtracking will be expensive and lead to a loss of credibility.

In this overall context, the Panel is pleased to see that the originally proposed VfM actions to be taken are phased so that this CP focusses on the impacts to a subset of schemes. We urge the regulators to consider the first implementation as a pilot study. This is especially critical because as noted above, there are still many open issues / unanswered questions in this CP, including those that relate to complex technical calculations requiring system design, configuration, and testing. Although the outcomes of a limited approach will not generalise across the entire sector, this presents an important opportunity to gain data and lessons learned.

We urge the regulators to monitor the implementation very closely, with detailed collection of progress, risks, and issues information from the schemes. It's important to then work with the schemes to ensure that any emerging risks are quickly identified and addressed, and of course, ensure readiness for the next phase (or phases).

As we noted above, the Panel recognises that programme changes come with an up-front cost and that this can be difficult for firms to bear (but those that can are likely to pass the costs on to consumers). The implementation of the VfM framework is an extremely large programme of change, especially for data collection. Because of this, we believe that the VfM framework could provide a significant opportunity to update the regulators' approach to firm burden in a way to better understand the burden imposed. In order for the UK to create a thriving and preeminent internationally competitive financial services sector, firms must provide the best user experiences, have the highest operational efficiency, and be able to collect and analyse massive amounts of data to identify risks and trends. The UK must optimise its use of technology to achieve this.

Therefore, rather than stopping with the assumption or question relating to firm burden, the regulators should also ask "What support would be needed to overcome this issue?".

Please also refer to our earlier responses on this topic^{1 2 3 4 5}

Yours sincerely,

Chris Pond
Chair, Financial Services Consumer Panel

¹ [final fscp fca driving value for money in pensions.pdf](#)

² [final fscp tpr-fca driving value for money in defined contribution pensions.pdf](#)

³ [final fscp response fca tpr dwp value for money consultation.pdf](#)

⁴ <https://www.fca.org.uk/panels/consumer-panel/publication/cp24-16thevalueformoneyframework.pdf>

⁵ <https://www.fca.org.uk/panels/consumer-panel/publication/financialservicesconsumerpanelresponsetocp26-1valueformoneyframework.pdf>

Annex

Question 1: Do you have any comments on our proposals for phasing?

The Panel is very pleased to see that the proposals are being phased, as we have serious concerns that an implementation prior to clear certainty about the application, implications, and outcomes of these proposals will have negative unintended consequences to savers. Whilst we agree that the proposals can lead to material improvements for savers, the status quo has existed for quite some time and is not perceived by savers to be problematic. Rushing the sizeable changes carries significant risk.

We would urge the regulators to consider the first phase as a pilot, ensuring that any lessons learned are addressed. Following an in-depth analysis of the first phase results and the overall situation across the full scope of arrangements, the regulators should expect to prepare and publish a follow-up consultation prior to implementing further phases.

Furthermore, because the first phase is intended to capture a large number of savers, the Panel suggests that the regulators and arrangements should have detailed plans in place to address the potential impacts of media coverage following data publication.

Question 2: Do you have any comments on our proposal to limit the first data collection period to 6-months?

The Panel's larger concern is that, because of the urgency for firms to be ready, the costs to implement the data collection will be larger than if the data collection was deferred and covered an entire year. We remind the regulators that these costs are likely to be passed on to consumers.

Question 3: Do you have any concerns about our proposed exemptions and inclusions?

The Panel does not have any specific comments on the proposed exemptions and inclusions. However, we would urge the regulators to provide individual arrangements with a formal mechanism to justifiably challenge an inclusion on the documented basis that their members are making active decisions.

Question 4: Do you agree with the proposed exemptions (full and partial) for contract-based arrangements where there is a transfer or a plan to transfer? Why or why not?

The Panel does not object to the proposed exemptions; they addressed some of our earlier concerns and seem reasonable.

Question 5: Do you have any further comments on our proposed scope?

No additional comments.

Question 6: Do you agree with the proposed updated methodology? Do you envisage any issues with calculating investment performance metrics on a basis that tracks members experience over time, while excluding contributions? Please specify where problems might arise, if any.

The Panel does not have any objections to the proposed updated methodology. However, post-implementation, we would expect the regulators to test, on a sample of firms, whether this methodology (as compared to alternative methodologies) provides the most useful data.

Question 7: Do you agree with the removal of standalone BLM disclosures at 5YTR? Are there any issues associated with its removal?

5YTR is the point at which members should start to consider their financial situation and the decisions to be made about their pension decumulation options. 5YTR could also be a trigger for increased member engagement related to the investment performance of their arrangement. Because it is such a critical point in the retirement journey, the Panel would prefer that BLM disclosures at 5YTR remain until there is clear evidence that this is not helpful VfM information.

Question 8: Are you comfortable with ASD as a risk metric for all arrangements, or should some arrangements calculate their volatility metrics differently? Please specify under what circumstances and what modified calculations you would recommend.

The Panel agrees that the ASD is an appropriate risk metric that should be used for all arrangements to ensure that there is consistency for comparison purposes. However, we agree that additional metrics may be helpful (and necessary) in particular scenarios / arrangements. We believe that the best approach is to examine this with real current data and to add metrics to the proposals where indicated.

Question 9: Are there any circumstances in which a scheme would not have access to the historical cost information required to apply the same chain linking methodology to costs as done to gross performance figures, noting the more limited scope under which chain-linking is applicable?

No response.

Question 10: Would there be a material reduction in burden if net performance were to be calculated first, and then chain-linking applied to it, rather than chain-linking costs in order to derive accurate net performance metrics?

The Panel suggests that both approaches are tested on real current data and to test understanding and useability to determine which is the best approach.

Question 11: Would trustees or firms have the necessary data to retrospectively determine if an arrangement would have been classed as quasi-default up to 10 years prior, so as to apply chain-linking where necessary?

No response.

Question 12: Do you agree with the proposed requirements for FLM disclosures and safeguards? Why or why not?

The Panel does not object to the proposed requirements for FLM disclosures and safeguards. However, the Panel does have a concern regarding accountability, as the people who are responsible for the calculations and disclosures may leave over time. To partially mitigate this risk and given that there is a 6-year record retention requirement, the Panel would urge the regulators to examine the FLM and BLM metrics and supporting records of a set of firms, such that all firms are examined at least once every 6 years.

We also believe that the regulators should identify and track trend metrics to monitor whether gaming, herding, or other behaviours might be occurring and, if so, to address the situation quickly.

Question 13: Do you agree with our revised proposals in relation to Asset Allocation? Please provide details of any concerns you have relating to our proposals.

and

Question 14: Do you have any comments on the definitions used above? In particular, do you have any comments on the definition of 'UK-based entity'? Is there an alternative definition you would suggest?

Because it is clear that sectors drive market change and will affect the performance of the arrangement, the Panel is very disappointed that there is no intention to allocate assets by industry sector as per the Global Industry Classification Standard. This should be added in a future iteration. The failure to include asset allocations by industry sector could lead to the conclusion that the purpose of the VfM framework prioritises the economic growth objective over the consumer protection objective.

The Panel notes that, whilst stablecoins appear to fall within the cash allocation, that has not been made clear. We would also suggest that the regulators should carefully consider the approach to cryptoassets more broadly.

The look-through approach to pooled assets does provide clarity about the underlying assets, which is important. However, we think it would also be helpful to provide information about the allocation of pooled vs individual asset allocations. There is generally a material risk reduction for pooled investments vs investments in individual assets. This risk reduction may not be readily identifiable, but it is important for comparison purposes.

The Panel would also comment that excluding bespoke arrangements may seem reasonable; however, we believe that this information can be useful for comparison purposes (with a disclosure that it is a bespoke arrangement). Furthermore, we would caution that the exclusion could lead to arrangements arbitraging the definition to avoid this reporting.

We do not have any comments on the definition of a UK-based entity, but we would suggest that the regulators do provide guidance for decentralised cryptoassets.

Question 15: Do you agree with our proposed definitions? In particular, do you agree with our definitions of UK assets? Are there any areas where definitions need to be tightened to ensure consistency of measurement?

Please refer to the Panel's response to Question 14.

The Panel would suggest that arrangements are asked to maintain, and submit to the regulators, an issues and resolutions list noting any asset allocation challenges they faced during the first reporting period. This should not impose a material regulatory burden, as they should be documenting this for internal purposes. The regulators should then amend definitions accordingly to ensure future comparability.

Question 16: Based on the new proposed calculation methodology, we would be interested in views on whether, to help mitigate the risk that there are few – or no – members within the retirement cohorts, it would be more practical to calculate the median based on the number of employers, rather than members.

The Panel does not have a response to this particular question.

However, the Panel suggests that paragraphs 208. and 212. seem to contradict each other and believe that further clarification would be helpful.

Question 17: We would be interested in views on whether all multi-employer arrangements should disclose maximum, minimum and median cost metrics, in order to highlight variations in the treatment of small or large pots.

The Panel is very concerned that there are material detriments to consumers who have small pots. Therefore, we believe that it is essential that all multi-employer arrangements disclose maximum, minimum, and median cost metrics. To do otherwise, risks masking harm to the very consumers this framework is intending to support.

Question 18: We would be interested in views on whether member-level calculations (Option A) or the model pot size approach (Option B) would be more effective.

We believe that the simplest way to calculate and present this information is the best approach. Option B appears to provide the necessary information; therefore, the Panel supports this approach (unless / until evidence suggests otherwise).

Question 19: Do you agree with our suggestion that the variable effects of complex charging structures on pots of different sizes should be disclosed separately from the effects of commercial variations of fee terms? Do you agree with our proposal for achieving this?

Yes, the Panel agrees with the suggestion that the distinctions between pot size and commercial variations of fee terms should be disclosed separately, as again, we believe it is important to understand the variability of costs and whether there is potentially consumer harm relating due to differences relating to the pot size.

This is also an opportunity to raise a point that has not been considered in the consultation or the questions: because costs and charges vary dramatically by asset category, we are disappointed that there is not a requirement for separate disclosures of costs and charges by asset category.

Question 20: How should the separate pot size effect disclosures be used in the assessment of value? Should they be based on peer-to-peer comparisons (consistent with the rest of the VFM Framework) or should trustees / IGCs carry out value assessment internal to the arrangement, to determine whether the small pot members are excessively disadvantaged compared to their fellow members with larger pots?

The Panel would suggest that both internal assessments and peer-to-peer disclosures are appropriate. The entire purpose of the VFM framework is to prevent disadvantages to particular cohorts of members, and therefore, all available tools should be used to accomplish this.

Question 21: Would it be helpful if we defined STP as a fully automated process for the purposes of VFM and asked schemes to confirm:

- What percentage of payments fall within this definition?
- The mean and range of all contributions falling outside this definition?

The Panel does not see the value of distinguishing transactions that are STP from those that are manual. Schemes should be automating as many of their administrative processes as possible to reduce costs and the possibility of manual errors. Those firms which have done so should generally have processing times that are substantially lower than those that have not.

Question 22: Do you agree that the metrics for trust-based and contract-based complaints processes are now comparable? Are there any further steps that we should take?

We do not have a response to the specific question, but the Panel agrees that the new metric reporting the percentage of upheld complaints is important.

Question 23: Are partly upheld Financial Ombudsman decisions recorded as a separate category by firms or included within the upheld figures?

The Panel agrees that both fully upheld and partially upheld FOS decisions should be reported if possible, and firms should start to record them separately if they are not already doing so. Until such point as they have this data, they should report all complaints upheld as fully upheld and add narrative to explain that they do not (yet) have the data segregated.

Question 24: Do you agree with the proposed approach to consider decumulation aims separately for the 0 YTR cohort? Why or why not?

The Panel strongly supports the proposal to consider decumulation aims separately for the 0 YTR for the reasons described in the CP. This becomes particularly relevant in the context of Guided Retirement.

Question 25: Would decumulation aims be more appropriately considered in step 3 rationalisation?

Given the importance of decumulation aims to consumers and the need for flexibility in those aims, the Panel firmly supports the proposals to include decumulation aims in both step 1 and step 3. We believe that the rationalisation step can provide important information (that can also be considered in future iterations).

Question 26: Do you agree with the decumulation aim sub-categories? Why or why not? Are they sufficiently clear, or do they need to be defined?

The Panel agrees that the decumulation aim sub-categories as set out seem reasonable. However, additional explanations in the "other" category and the rationalisation step may provide information indicating that iteration of the sub-categories is needed.

Question 27: The proposed shift in approach for the first year of the Framework moves away from a more granular assessment of value that we have consulted on previously. We welcome feedback on where stakeholders consider there to be concerns in relation to the data sets, the proposals set out in CP26/1 for the publication and use of multi employer cohorts, and the proposed changes.

The Panel fully supports the proposed shift. We believe that it is important for the regulators to have this data to enable them to assess whether there are potential value for money questions due to commercial terms. However, we also agree that making this data available more widely available could, and probably would, raise competition concerns.

The late recognition of this issue highlights yet another reason to be very cautious about the rush to implementation. Phasing of the VfM framework provides an opportunity to identify, fully analyse, and test approaches on a step-by-step basis.

Question 28: Does the second factor for consideration proposed for weighting BLMs and FLMs risk excessive use of FLMs? If so, should we restrict this factor more explicitly? For example, to significant investments in assets affected by 'J-curves'?

The Panel points out that there appears to be an implicit assumption that FLMs will always be better than BLMs in this discussion. We do not agree that this is appropriate. We urge the regulators to also consider the approach that should be taken if IGCs and trustees have a view that FLMs will actually be worse than BLMs (because of a market downturn or if asset performance is expected to otherwise decline, e.g, increased credit risk).

Question 29: Do you agree with the simplified approach proposed for multi employer arrangements for year 1? Why or why not?

and

Question 30: Do you agree with the simplified approach proposed for single employer arrangements for year 1? Why or why not?

and

Question 31: Would the simplified approach be appropriate if it was applied on an ongoing basis, for all in-scope arrangements completing assessments, with consequences attached? In particular, we are interested in feedback in how it may impact the assessment outcomes of SETs, bespoke and legacy arrangements.

The Panel has no response to these three questions.

Question 32: Do you agree with the proposal for multi-employer arrangement consideration of minimum, median and maximum? Why or why not?

The proposal seems reasonable, especially the guidance that the arrangement must pay particular attention to the minimum and median net performance. As noted in the CP, this may highlight the potential for situations where employers which have greater fee negotiating power skew the overall performance indicators to the high end.

Question 33: Do you agree with the proposed actions for not value arrangements? Why or why not?

The Panel is more comfortable with the proposals for not value arrangements given that there is now a year before actions must be taken. This provides the regulators with an opportunity to review the data and submissions and to identify and address any unintended consequences of the proposals.

We are, however, still concerned with the mandatory expectation to transfer members without their engagement. The Panel takes the view that a transfer proposal should be explained to members, they should have the opportunity to query / challenge the decision, and the arrangement should then provide them with a response (largely based on the VfM assessment). We suggest that this does not need to require positive consent; therefore, unengaged members will not affect the ultimate action. This should reduce the risk of reputational damage if some members are displeased with the subsequent transfer. It could also function as a nudge to improve (and assess) member engagement.

Question 34: Do you anticipate that a shorter initial data collection period would create any practical or analytical challenges, and if so, how might these be mitigated?

The Panel has no response to this specific question; however, we do raise the question as to whether it might have any potential impact on comparability for the future?

Question 35: Do you agree to proceed with data publication in November given the risks identified? How likely are these risks to emerge and what steps could we take to address them effectively?

The Panel agrees that data publication should occur in November, at the same time the annual VfM assessment report is published. This should mitigate the risks that results might be misinterpreted. If this was widespread, the impact could be felt across members, firms, the sector, and the economy.

However, the Panel also agrees that there are risks that data will leak or that the data could be misused for commercial purposes. We agree that this would be inappropriate and is likely to be against the law.

However, as noted in paragraph 486., large numbers of people will have access to the data, some of whom will not be well versed in the law or who might need reminding. Therefore, we believe that at each log-in, a warning notice should be displayed, with an acknowledgment that the warning is understood, prior to access. Furthermore, the opening of each individual account on the database should be appropriately approved.

This section also highlights the risks around conflicts of interest, which we believe haven't been discussed fully as yet. The Panel suggests that greater consideration is given to disclosures of conflicts of interest in general in the context of the VfM framework. This should include guidance on what is and is not acceptable from a competition perspective.