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6 March 2026

By email: dp25-3@fca.org.uk

Dear Sir/Madam,

Financial Services Consumer Panel response to FCA DP25/3 Expanding Consumer Access to Investments

The Financial Services Consumer Panel (the Panel) welcomes the opportunity to respond to the FCA's discussion paper (the DP) titled Expanding Consumer Access to Investments. We are an independent panel that represents the interests of consumers of financial services including both individuals and small businesses. Our focus is on the outcomes and impacts to these stakeholders.

The Panel supports the FCA's strategy to help consumers navigate their financial lives and to help and empower consumers to make optimal decisions that will improve their financial outcomes. However, we are quite disappointed with the approach that the FCA has taken in this discussion paper. With very limited exception, this paper appears to be unduly focused on widening the range of investment products firms can offer, or who they can offer them to, rather than seeking to address demand side barriers to effective investment decision making by retail customers. In some cases, we are concerned the paper's approach risks operating to the detriment of the FCA's primary consumer protection objective.

In the Panel's view, it is of the utmost importance that the FCA approaches this review from the viewpoint of the consumer. Firms are dependent on consumers to survive rather than the reverse. Firms must appeal to consumers to get their business, and the best way to accomplish this is to ensure that consumers have the capability and capacity to engage. In our view, a key ambition should be to see a shift from products being 'sold by firms' to products that are 'proactively bought by consumers'. Furthermore, active consumers should help generate the desired sustainable growth.

The Panel urgently encourages the FCA to engage in meaningful discussion with consumers as well as consumer representatives. We would expect to see serious involvement of the FCA's Consumer Engagement team in this initiative. We would also strongly suggest that the FCA establishes an FCA-led cross function intelligence unit in collaboration with consumer representatives to follow all initiatives that touch on consumer investing, either directly or indirectly. This

could include setting up vanguard pilots, identifying and sharing what works, determining appropriate metrics to track progress, etc. The FCA should also use its convening power to gather citizen assemblies online and in person across the UK to inform the discussion.

In addition to this and given that Panel members have relevant experience, we suggest that there are many possible approaches the FCA might take to achieve better outcomes for consumers and for firms. Some of these are:

- As part of the authorisations process, ensuring that firms are engaging consumers in high-quality testing of products and communications. The FCA should have access to this research to identify lessons learned for the firm and the industry more broadly and to identify gaps in regulation that should be closed.
- Actively encouraging participation in the FCA Sandbox by firms looking to provide innovative applications and establish digital engagement practices (DEPs) that lead to positive outcomes for consumers. As one example, we suggest assessing the impact of interactive approaches to risk warnings. Another example would be to support investment strategies that deliver good consumer outcomes.
- Leveraging the FCA Sandbox to better understand consumer behaviour. The FCA should formalise an effort to capture consumer data that might indicate preferences, resistance, decision-making approaches, etc.
- Supporting qualitative research with an objective to understand the end-to-end journey for consumers to gain confidence in investing, utilising a variety of instruments. This could use experimental designs over a short period of time and/ or could be longitudinal in nature. We would envision that this research captures various categories of consumers, including those who have lost money in the past and are now reluctant to move out of cash.
- Paying particular attention to vulnerable or underserved populations to ensure that they are not left behind. All relevant FCA teams, including the Financial Inclusion team, should be engaged.
- In addition to its own research, continuing to utilise external research and resources whenever possible in the quest to understand consumer behaviour and psychology relating to investing and financial outcomes. One key area to explore is the appeal of social impact investing.¹ Framed properly, social impact investing can be either a means to gain consumer interest, or it can be a powerful force to encourage further investment. Additionally, it would be instructive to understand consumers' underlying perspectives around investments and investing and whether or not risk appetite can change, and if so, how that can be accomplished in a way that best improves outcomes for overly risk averse (or overly risk-seeking) consumers.
- Exercising its convening powers, the FCA should work with industry and other experts to develop a standardised definition of each of the various risks that apply to investments. A starting point may be to leverage the

¹ [Final report of the Social Impact Investment Advisory Group - GOV.UK](#)

associated work relating to Consumer Composite Investments. These definitions must be easy to understand and to apply to investment scenarios, so should be tested with consumers. The resource should be authoritative, independent, and publicly available, and there should be mandatory signposting to it by firms. We believe that this would be a benefit to both consumers and firms, especially smaller firms.

- Consumer investing in non-listed companies could be enhanced by the availability of a publicly available data base of UK companies that meet defined standards. Whilst the Panel does not believe that this data base should necessarily be the responsibility of the FCA, we do believe that the FCA should play a significant contributory role, given its current responsibility for the UK listing rules and the PISCES sandbox. A data base such as this will give confidence to consumers to invest and will also be an incentive for companies to meet the standards as it is likely to lead to a significant boost in their ability to attract funding. The FCA should capture and use PISCES sandbox data to develop a picture of the various factors, both positive and negative, that influence consumers to invest.
- Exploring and analysing the messaging (and performance) for pension savers relating to their pension investment choices, especially comparing the default option to self-select options. It's also worth noting that there may be less recognition of interest-rate risk in default plans than is warranted.
- Measuring consumer investment confidence and consumer understanding of products and risks as success metrics. Positive changes in these metrics will be a much better reflection of good consumer outcomes than the number of consumers with £10,000 or more in cash who move from cash to investments.

We also would suggest that the FCA use its existing and forthcoming tools to further consumer knowledge and help them to gain comfort with investing:

- The Consumer Duty should be front and centre in the effort to further knowledge and understanding across the entire consumer journey. Firms should be making every effort to inform and educate their clients clearly, transparently, and in a fair manner before they make an investment (or choose not to), to keep them informed once they've made the investment, to address any issues as they arise, and to guide them when it comes to appropriately exiting the investment. This will improve consumer capability and confidence, and is likely to stimulate further investment.
- Rather than being positioned as warnings, consumer disclosures can be improved to engage consumers on their investment journey. Disclosures should be salient to the consumer and situation, directive and action oriented, active rather than passive, and designed for different consumer experiences.
- Properly done, targeted support can be an effective way to educate and inform consumers. The FCA should ensure that firms are using targeted support to improve the consumer investment journey, not as a means to sell them a product they don't really want or understand. They should

make sure that the consumer understands the products and associated risks.

We have also answered the questions in this consultation in the Appendix below.

The Panel is very supportive of the FCA's strategy to help consumers achieve better financial outcomes whenever possible, which may well include adding investments to their asset portfolio. However, we firmly believe that the best approach is to ensure that consumers clearly understand their options and are not encouraged to take uncomfortable risks. We look forward to working with the FCA teams going forward to ensure that this is the case.

Yours sincerely,

Chris Pond

Chair, Financial Services Consumer Panel

Appendix

Question 1. To what extent does our regulatory framework – including using the Duty - mitigate the risks associated with DEPs while supporting their positive use?

We would have expected that the Consumer Duty would have prevented some of the DEPs that are currently in the market, given that they are clearly associated with consumer harm.

However, it is possible that the DEP itself is not the underlying root cause of the issue. We suggest that the FCA must identify, support, or engage in research that identifies precisely what the factors are that result in consumer harm. This could be a result of the design of DEPs, firm communications, the products (e.g., cryptocurrencies) available in the platform, social media, investor psychology, etc. and is likely to be a combination of these and other aspects of the consumer experience. The research should have a dedicated component specific to investors who lost money in order to understand lessons learned and potential regulatory framework implications.

DEPs can be designed so as to lead to better consumer outcomes; it would be helpful if the FCA could identify and share examples of those with the industry. We would hope that this could be supported through the FCA Sandbox.

However, if, at any point, the FCA identifies that there is an issue with firm behaviour, either by the design of the DEP, firm communications, or the products the firm sells, it seems clear that the Duty may not be sufficient for encouraging appropriate firm behaviour and that there must be additional guidance, additional rules, increased supervisory engagement, or enforcement actions.

Question 2. Are there other frictions or factors shaping retail investing consumer journeys which our regulations do not sufficiently take into account?

Historically, the most important friction in investing consumer journeys has been to restrict the most sophisticated high-risk investments to investors who have the expertise and financial capacity to understand and bear the risks. Unfortunately, the “genie is out of the bottle” when it comes to cryptocurrency, and it will be a very difficult challenge to put it and anything with a similar risk profile back in.

However, the FCA does have influence over the firms that offer these products, in the form of the Consumer Duty, and it must enforce that firms ensure that their investors fully understand the investments and risks that they take, that they have the financial capacity to do so, and that they do not have vulnerabilities that indicate a particular investment or strategy is not appropriate.

The impact of technology, especially social media and AI (especially large language models), has and will continue to have a significant influence on consumer investments. The FCA must continue to monitor these sources of

information and take whatever action is necessary to prevent consumer harm that could be occurring.

We are also concerned that there is a significant lack of credible information available to investors. And it is possible that, to remain competitive, advisors will not share their strategies, as consumers could replicate them at less cost.

Question 3. What risks do you see retail consumers taking on when investing in fractional investments?

and

Question 4. How do you think fractional investments should be treated under our rules?

As noted in the consultation paper, the biggest risk to fractional investments is that consumers do not understand their lack of rights to what might appear to be the underlying asset if that is the case with the structure of the investment, e.g., as a derivative. This could be considered as an [additional] element of credit risk, as they are dependent on the issuer to honour the contract. Furthermore, the fractional "structure" may not have the same level of liquidity as the underlying shares, which means that the spreads could be greater and the structure may also manifest a different level of market risk.

It is also important to note that, some firms have started to offer tokenised equities, which have the appearance of representing a fractional share of a company, some of which are largely unattainable by the normal investing public². These "shares" do not have voting rights, and it is possible that they will not receive a share of any dividends. Therefore, in these cases, not only does the investor face the "credit" risk noted above, there is also the possibility of conflicts of interest with the token issuer as they may vote differently than the token holder would on issues of importance, such as acquisitions. In addition, there may be additional market risk associated directly with the token as well as market risk associated with the actual company shares.

The FCA must be alert to investments where there is incremental risk over and above that of the underlying shares and make sure that investors are protected, either through market restrictions or appropriate disclosures. In some cases, retail investors should be prohibited from investment, and when they are not, all of the risks and implications must be fully explained to any potential investor, who must meaningfully acknowledge their understanding.

Question 5. Do you think it is important to make the regulatory treatment of MPS more consistent with managed products? What are the costs and benefits to firms and consumers of creating consistency?

First, it is important for us to note that we think that model portfolios are an excellent way to introduce consumers to investing and to help them build confidence. However, this is more likely to be the case when the portfolio

² [Stock exchanges urge regulators to crack down on 'tokenised stocks' | Reuters](#)

"mandate" is precise, the investment philosophy is explained, and the consumer has easy access to view what positions the model portfolio is holding.

In that light, yes, we believe it is critically important that the regulation of similar products is the same. Although there may be up-front costs to create alignment, consistency should reduce costs in the long term. In addition, over time, and with the right information, consumers will become better able to understand and participate in investments in various structures and asset classes. However, it is also important to keep an open mind as to whether it is better to implement existing regulatory treatment or to revisit the framework to develop an optimal treatment that is designed to be future proof.

Question 6. Are there other examples where our regulations make it difficult to compare similar investments, what harm does this cause and what changes to our regulatory approach do you think we should make?

We predict that tokenised assets might be particularly problematic. This is in large part due to legal differences relating to the various underlying assets. Consumers are unlikely to be aware of this and may well think that one token is the same as another. For example, tokenised money markets will be very different to tokenised real estate, but the tokens are likely to be traded and held in the exact same fashion. Similar to fractional investments, tokenised assets are likely to exhibit different risk profiles to the underlying asset. To compound matters, we also highlight that the secondary market for tokenised assets is and will be immature for quite some time, which will further impact liquidity and market risks. The FCA will need to use caution to ensure that proper regulation is in place and is enforced for all permutations.

Question 7. We have highlighted where speculative products pose similar risks to consumers. How should we approach consistently treating these products in our regulatory framework?

In simple terms, the Panel believes that the same risk should demand the same regulatory treatment and lead to the same consumer outcomes.

Some possible approaches include (but are not limited to):

- Investor appropriateness assessments prior to a consumer engaging in transactions. A consumer must be able to demonstrate an understanding of the product and its risks (and ways to mitigate those risks).
- Restrictions limiting or preventing consumer harm, such as account and / or margin limits.
- Disclosures that are fully transparent and easy to understand (such as consumer losses over a period), as evidenced by consumer testing.
- Periodic firm or good and poor practice reviews that eventually capture all firms offering the products, with FCA action taken when firms are not compliant.

Question 8. Should we replace our product-centred approach to regulating speculative products with an approach that is more risk and return centred and product agnostic? If so, do you have views on how such an approach could work?

Yes and no.

The Panel suggests that a product centred approach may still be viable but would need significant enhancements. There are also other possible approaches, but it is hard to envision a situation where product is not part of the picture.

As is, the FCA may struggle to keep up with a purely product-centred approach when products are rapidly evolving. This is likely to become even more so with artificial intelligence. Firms will find innovative ways to circumvent “cast in stone” product-centred rules.

Complaints information should be used to identify where consumers misunderstand products, product communications, and investment risks. The Panel suggests that the Wider Implications Framework becomes essential for regulatory understanding of all issues with products. This can lead to a synthesised and common view of solutions, which may or may not be product-centred.

In the context of Principle 11, there should be consideration to requiring firms to inform the FCA of any new product that will be sold to retail clients and which exhibits particular risks. The FCA Sandbox may be an appropriate mechanism for the FCA to gain exposure to and understanding of these new products in order to establish the appropriate regulatory framework (either existing or new). It might also be helpful for the FCA to build a product library with relevant information, which could be used by both firms and consumers.

Given that the Consumer Duty is applicable, the FCA must create a formal plan to assess whether firms and products are meeting those expectations. This will not always be black and white, so the FCA will need to provide guidance over time. The Panel is a strong believer in multi-firm and good and poor practice reviews, which should inform this guidance.

Another possibility would be to require client assessments for any product that falls within the speculative category prior to the consumer’s investment. This assessment would capture how the product functions, its risks, and the mitigants. This must demonstrate understanding and cannot be a checklist.

Question 9. Are there regulatory interventions which would enhance consumer confidence in the P2P market and/or make our regulatory approach more consistent with other high risk products? Alternatively, are there specific barriers in our requirements that are limiting appropriate consumer access to P2P products?

It would be interesting to understand the reasons for the contraction in the P2P market before making any suggestions. If it hasn’t already done so, the FCA should investigate the impacts, both positive and negative, of its December 2019 regulatory intervention on consumers and on the sector possibly through complaints data or surveys.

If negative consumer experiences are still prevalent, then it would make sense to identify appropriate additional regulatory interventions.

If, on the other hand, research shows that consumers perceive the P2P market positively, but firms have exited the market because the model isn't lucrative enough or as a result of governance weaknesses, then it may be helpful to further explore solutions that ameliorate these issues, as long as consumer protections remain appropriate. In this context, it would also be worth analysing the impact of mutuals on the P2P market and vice versa, both now and considering future plans.

Research from the US indicates that the market is strong and growing³, therefore, it would also be helpful to understand the differences between the UK and US P2P market. This does not mean that the UK should replicate the US approach to P2P, but the FCA should analyse product and regulatory differences to identify any changes that might be appropriate for the UK market.

Question 10: Are there other inconsistencies and complexities in our regulatory framework not discussed in the previous chapter which are creating barriers to consumers taking informed investment risk?

We would suggest that a significant hurdle is that there is not a single transparent, simple, authoritative, and trustworthy explanation of the various risks that an investor might face as part of an investment decision. A resource such as this would be a valuable resource for consumers, not dissimilar to the FCA firm register. This would need to be tested to ensure that it is properly interpreted by consumers in a variety of scenarios.

We also encourage the FCA to explore and explain inconsistencies between some of the metrics it captures. For example, the FCA shows that 38% of UK adults are undersaving for retirement, but 61% hold all or most of their assets in cash. It may be coincidental, but it is interesting that these numbers are almost precisely the inverse of each other. This dichotomy may also explain why UK adults are more cautious. If they can achieve their retirement objectives without risking capital, that may be reflective of sound decision making.

Question 11: Are there ways we could better help consumers understand the protections and limits to the protections available to them when investing?

The fact that some investments have protections and some do not is not helpful, as consumers don't necessarily understand the distinctions or think to check. One possible suggestion might be to include the presence or absence of each of the various protections as a risk in the authoritative source suggestion in the response to Question 10. Alternatively, or in addition to this, and as the Panel has previously recommended for crypto-assets, there should be mandatory appropriateness testing for any investment that is high risk or does not have protections. A consumer should be assessed for their understanding of the risks, including the lack of protections. This should be documented and agreed by the consumer.

³ [Peer to Peer \(P2P\) Crowdfunding Market Size By 2035](#)

The Panel would also urge the FCA to try and simplify wherever possible. While there may be technical differences between different products, this does not necessarily justify differing regulatory treatment. If consumers rightly see them as substitutes, introducing, for example, technical differences in disclosures that serve no practical benefit to consumers or otherwise introducing differences in the level of protection between them is likely to do more harm than good. See also our response to Question 12.

Question 12: What do you see as the most significant priorities for how we approach the next steps of reforming the retail investing regulatory framework?

The absolute first priority is to understand the context and issues from a consumer perspective rather than a firm perspective. Consumer research is essential to inform this. We propose three possible ideas, but these are just starting points to start the thought process:

- The FCA collaborates with platforms such as Female Invest⁴, which is an organisation designed to help women understand the stock market. This should give the FCA insight into approaches that work to engage people who are interested in but not confident enough to take the steps to invest.
- The FCA makes an effort to understand the consumer's journey to understanding investments. This would take a representative sample of novice investors and take them through a several-month initiative starting with cash and moving through the risk profiles of a variety of investments. This will both inform those consumers, but will also provide the FCA with information about what works and what doesn't.
- The FCA recruits a representative sample of individuals that have a variety of levels of investment experience. Each should be presented with multiple investment products and questioned as to the steps they would take to make an investment decision and what that decision might be. This could identify where there are particular weaknesses in the framework, which could be eliminated or reduced.

Another priority is to ensure that firms which are selling products to consumers are compliant with the Consumer Duty. The Duty provides appropriate guidelines that should encourage firms to do the right thing for their clients. This should not be a tick-box exercise but rather an embedding within the firm culture. We are disappointed that the Consumer Duty Board Champion role was eliminated, but we would suggest that the FCA impose that every SMF has a Consumer Duty responsibility if they have retail clients or manufacture or distribute products designed for retail clients. Even administrative functions must understand the Duty's impact on the success of the firm.

Furthermore, given that technology is now pervasive across all aspects of financial services and continuously evolving at pace, SMFs should be well-versed in any technology component that forms part of the consumer service delivery

⁴ [Female Invest: The #1 Money App For Women](#)

under their scope. This should include awareness of risks and appropriate mitigants.

Question 13: Are our financial promotion marketing categories consistently classifying investments based on their risk profiles? Please provide examples of where you see inconsistencies.

As noted in paragraphs 3.9 and 3.10 of the CP, it appears that they are not; however, they should be. Having distinctions at a granular level will not help consumer understanding or firm compliance. The Panel agrees that it is eminently reasonable to have categories of investment as shown in Figure 3 of the CP, but the framework needs to be intuitive, and there should not be a need for any exceptions. We would also suggest that this categorisation becomes part of the overall regulatory framework and should not be limited to financial promotions.

The categories should have clear definitions that can be accessible by both firms and consumers. Consumer understanding of the description of the categories should be tested, and the FCA should ensure that consumers are aware of the categories, as it can be helpful guidance for them to understand where they best fit. Furthermore, similar to the FCA register, consumers could verify if a firm they are dealing with is compliant with the rules and inform the FCA if they are not.

Firms should capture client data by category and analyse this for alerts where a client may not be investing in their own best interest, i.e., someone is incurring significant losses outside normal parameters.

Question 14: To what extent do our financial promotion rules achieve their aim of enabling informed risk-taking and mitigating harm? Are there ways they could be improved?

The Panel believes that an assessment of the effectiveness of the financial promotion rules requires data and should not be based on anecdotal evidence from firms. Many firms are likely to have client data that is correlated with their financial promotions, and the FCA should have access to anonymised reporting. To complement that information, the FCA should also consider complaint data. In addition, it would be helpful to have experimental data that shows how consumers react to particular financial promotions. If this is not currently available, the FCA should encourage the industry to engage in this research or the FCA should conduct it.

Question 15: Are there other ways our regulations on how firms communicate with consumers could be improved?

We believe that the Consumer Duty should be encouraging firms to engage in the right communications with consumers. Firms should be testing their communications to ensure they are well understood by consumers and achieve the right outcomes. Firms should also have reporting metrics that support this over time.

The Panel would also propose that more information should be made available to consumers from a single independent and trusted source, such as the FCA or MaPS. This information should include an explanation of the investment categories noted above as well as an explanation of investment risks. Signposting to this resource or resources should be mandatory in all communications to consumers.

Although neither the FCA or MaPS are currently providing this type of information, at least one should be supported to expand their capacity to do so, as both have a similar associated core strategy and vision:

- FCA - helping consumers navigate their financial lives.
- MaPS - ensuring that people throughout the UK have guidance and access to the information they need to make effective financial decisions over their lifetime.

We also firmly believe that the provision of key information for decision making should be standardised across all investment categories. We would suggest that this is presented as a simple explanation that has drill-down capabilities to more technical information for consumers who wish to engage at that level.

Question 16: Does the appropriateness test effectively help ensure non-advised consumers can access appropriate investments? Are there ways in which it could be improved?

The Panel believes that appropriateness testing is essential, and it must be documented by the firm.

A basic form of appropriateness testing should be consistent across all firms and consumers. This will ensure that a minimum standard is understood by all stakeholders. This basic assessment should apply to all non-complex instruments. Any time an investment is deemed not appropriate, the firm must reject the transaction and explain to the investor why that is the case. If the investor can demonstrate that they understand the product and accept the risks, the firm can make an exception, recognising that the Consumer Duty applies. Other than the exception processing, the Panel would suggest that the end-to-end process, including transaction rejection, could be automated, especially for on-line platforms.

In addition to the basic form of appropriateness testing, there should be additional appropriateness testing for increasing levels of product complexity and / or risk. The Panel believes that it would be best to structure these assessment tests aligned with the investment categories discussed in previous question responses. We would also encourage the FCA and / or industry to agree a standardised approach. This will help to ensure consumer understanding and consistent treatment across firms; it should also serve to reduce costs.

We reiterate that we strongly believe that for high-risk investments, including but not limited to cryptoassets, an investor must be able to demonstrate their comprehension of the applicable disclosures and a clear understanding of the associated risks. Firms should be required to ensure that a consumer cannot proceed to investment unless this is properly documented.

Question 17: Are there ways we can streamline and/or clarify how our financial promotion and distribution rules interact with the Duty?

The Panel agrees that the Consumer Duty is a critical consideration for firms and is a complement to the financial promotion and distribution rules.

We do, however, think the FCA should reconsider their approach to this section. Some of the statements in this section are open to interpretation and appear to be sending a message to firms that the Duty imposes only concepts rather than rules. We reiterate that a consumer who is well supported to transact business with a firm is far more likely to continue to do business with that firm. And the industry and the FCA would do well to remember that it is these consumers who are responsible for growth in the sector. Instead of calling out that the Duty is underpinned by reasonableness and making a point that consumers should take responsibility for their actions and decisions and that “where appropriate” firms should test their client communications, the FCA should be encouraging firms to do the right thing for their clients. We also suggest that these comments do not provide clarity to firms and give those firms that are looking to skirt the rules licence to continue that thinking.

We would agree that, with the advent of the Consumer Duty, some rules, such as the one regarding the Restricted Investor Statement warning noted in paragraph 3.21 may not be necessary, as the firm should be fully aware of the profile of their client and should be monitoring for transactions that may not be in their client’s best interest.

As the FCA notes in the same paragraph, they are finding that firms are following good practice in this regard. Therefore, rather than reviewing these rules from a firm-proposed lens, the FCA should be looking at supporting data to determine whether firms are or are not meeting the standards of the Consumer Duty, and in those cases where firms are acting in the best interest of their clients, specific rules may no longer be needed or helpful.

We might also propose that the FCA encourages the development of independent “consumer duty audits” similar to systems and controls and ESG compliance audits. This could help consumers identify those firms that have the consumer duty embedded within their culture.

Question 18: Given the FPO exemptions are a matter for the Treasury, are there other interventions the FCA can make to protect consumers from harm caused by unauthorised financial promotions?

The Panel is extremely disappointed at the state of affairs regarding financial promotions as described in the Financial Promotion Order section of the CP. We do not agree that it should be acceptable for any consumer (regardless of income or wealth) to be excluded from the requirement that promotions be fair, clear, and not misleading. We also believe that the Consumer Duty should apply in all cases. To ensure good outcomes for all consumers, the FCA should not be precluded from supervising or enforcing inappropriate behaviour.

We also advocate for consistent treatment across all elements of applicable financial services regulation, rules, and guidance. This helps to ensure that there

is a common understanding across all stakeholders, which will also reduce costs for firms.

As noted in paragraphs 3.29 and 3.30, we are extremely surprised that the UK is such an outlier, and the Panel agrees that self-certification is not appropriate. Firms must document their assessment of a client at the outset of the relationship and must periodically reassess them, especially if the client is investing in any instruments that are categorised outside of the non-complex category.

We understand and agree that the facilitation of small levels of investment for unlisted firms in the early stages is important. However, the Panel believes that there are better approaches to accomplish this with far less potential harm to consumers. For example, we have proposed that the FCA might serve as a catalyst for a government supported public data base of unlisted UK companies that meet certain standards. We would also suggest that limiting the amount of investment in these firms aligned with the client categorisation is appropriate.

We expect the FCA to monitor firms for behaviour that is harmful to consumers, regardless of whether it is legislatively acceptable or not. The FCA should make a concerted effort to influence legislation if they find issues they cannot resolve, and otherwise supervisory or enforcement action should be taken whenever indicated.

Please also refer to our responses to CP25/36 Client categorisation and conflicts of interest and CP25/40 Regulating cryptoasset activities.