FCA
Practitioner Panel

Consumer Investments Advice Policy
FCA
12 Endeavour Square
London E20 1JN

By email

20 February 2024

Dear Sir/Madam,

DP23/5: Advice Guidance Boundary Review – proposals for closing the advice gap

The Panel welcomes the opportunity to comment on the proposals set out in the Advice Guidance Boundary Review policy paper.

Overview

We are supportive of the ambition of building a regulatory system where commercially viable models of advice and support can help investors that currently fall into the "advice gap". This represents a once in a generation opportunity to address the critical challenge in ensuring the necessary engagement of retail consumers in saving and investing for the future, managing their financial resilience and ensuring they have sufficient funding for later life. We are also pleased that the policy paper sets out the wider context to this important work, including the Consumer Investments Strategy, Smarter Regulatory Framework, ISA Simplification, Disclosure Reform, and wider work on pensions so that relevant work is aligned. It will be important that rules are not too prescriptive, allowing room for innovation and development of choice architecture that can support the iteration of a better consumer experience.

Our broad observation is that the proposals vary in level of ambition and key questions still need to be tackled. This includes the extent to which the Consumer Duty overlaps with the proposals, how to balance any further prescriptive requirements and outcomes-based rules with the existing rulebook, firms use of consumer data and approach to communications.

Fundamentally, successful outcomes should be the key focus rather than rules, with the Consumer Duty as the mainstay for the approach. Individuals' needs will evolve over time and the outcomes important to them may be influenced by different factors including their wellbeing, resilience, confidence and understanding. Firms will often engage with clients as part of an ongoing relationship, tailoring their approach to the individual's needs. To lower the barrier to taking advice there needs to be a move towards a modular approach to all forms of advice, deconstructing full financial planning into bitesize, less expensive, easier-to-navigate components, where firms can provide discrete advice to specific questions based on the exchange of a proportional amount of information between the investor and the firm. This should include a menu of options to select from (including individually managed services) depending on their stage of life and appetite to take on risk. Information required from clients should be on a sliding scale proportionate to the nature and complexity of the advice being offered. From a consumer perspective it should feel like a gentle slope to walk up rather than a cliff they must climb.

Targeted Support and Simplified Advice ('Targeted Advice')

We are supportive of the proposals for both Targeted Support and Simplified Advice. There is a role for both to help provide a continuum of support, filling the existing gap between generic, factual information and regulated financial advice and planning. Ideally, consumers could move seamlessly between these according to need and life stage.

Targeted Support presents opportunities to improve client outcomes, and is most likely to gain traction, particularly where data can be used. It offers opportunity for firms to engage at scale, as support can be delivered at a lower cost and is commercially viable. The ability for firms to take a service-based approach and make suggestions for products based on "people like you" is likely to be appealing. Not charging for this explicitly but allowing some form of cross subsidy or a subscription is workable, complimenting the aspiration to be data driven and have target markets align with Consumer Duty obligations. We also support that FCA authorised firms should be able to carry out targeted support, as part of business as usual customer engagement, where they have the relevant existing permissions linked to relevant products. Disclosure requirements should also be proportionate so as to not inadvertently disincentivise engagement. The existing regulatory framework, with Consumer Duty at its heart, is an effective standard by which to regulate this advice.

We would recommend simplified advice be re-named 'Targeted Advice' as it is more consumer friendly and fits neatly into a readily understandable framework for consumers. We would also like to see the concept go further. The scenarios outlined are too narrowly focused on how to invest cash savings (either accumulated over time or received via inheritance) or how to rebalance a portfolio where already invested, and we would encourage continuing to explore looking at different scenarios.

Considering the specific proposals, we have two main concerns:

- Firstly, we support the idea to expand the scope of the upper limit for receiving simplified advice beyond the original CP22/24 proposal of a £20k ISA cap, however accepting that there are advantages in a cap distinguishing targeted advice from full holistic advice, such a cap would likely be problematic to implement in practice. In our view the approach should be based on client needs not monetary amounts, recognising there are some consumers with larger investment balances but simple needs. This is supported by findings in the FCA's Financial Lives Survey 2022 that "Adults with over £250,000 in investible assets were the most likely to have received advice in the last 12 months" (37%, compared to 17% of those with at least £10,000, and 2% of those with less than £10,000)". Minimum or maximum limits are not conducive to providing support.

- Secondly, while we support the proposal to expand the range of wealth accumulation products beyond stocks and shares ISAs, we question the exclusion of pension decumulation decisions. This would be a missed opportunity as pension investment and retirement decisions are where people need the most help - excluding these will not close the advice gap.

We have set out below an overview of how the approach to support and advice could work:

Type of advice/ support	Covers	Advice/ support based on	Recommendation made	Fees	Accountabilty for actions taken
Holistic advice	All financial products and investments	The individual's overall circumstances	Yes	Yes	Advice provider
Targeted (Simplified) advice	Simpler financial products and investments	Some or part of an individual's circumstances	Yes	Yes	Advice provider

		(including pensions decumulation)			
Targeted support	Financial products and investments an individual has that are generally available	Circumstances that are generally seen in the industry or individual client groups that may be like the investor	No	Maybe not	The investor

Training and competency

We support the FCA's commitment to create a proportionate training and competency framework for advisors providing only Targeted (Simplified) Advice. It is appropriate that the regime is commensurate to the high volume/ lower complexity cases that this advice will generate. Ongoing engagement with industry will be important to reach consensus on how proportionality applies in practice so there is appropriate training and competence for delivering advice within this remit.

Further clarifying the boundary

We welcome that the FCA is considering how to approach providing further explanation of where the regulatory boundary, and accountability, sits to give firms greater confidence in dealing with different types of scenarios. Our concern is that this could create a further layer on the existing regulations and may have the unintended consequence of exacerbating confusion for firms and investors rather than supporting a common understanding. We would encourage the FCA to continue to explore with industry and consumers, via workshops and other engagement, whether using non-Handbook guidance or simplifying existing guidance may be helpful.

Redress and consumer protection

We agree that a shared understanding between stakeholders (including firms, consumers, the FCA and the Financial Ombudsman Service and the FSCS) of the standards and expectations underpinning different levels of service will be vital.

For targeted advice to work firms need to have comfort that information standards required to support a simplified/targeted piece of advice are consistent with the expectations of the FOS. This is particularly the case for smaller advice firms which have smaller profit margins and are likely to be more risk averse. Addressing this challenge may require the development of additional policy or guidance, which should be agreed jointly between the FCA and the FOS to avoid the potential for divergence of interpretation. We are encouraged that close collaboration to date between HM Treasury, the FCA, industry and the FOS has been very effective in enabling a joint exploration and understanding of differing perspectives and potential gaps. Continued close collaboration will be essential to build on this foundation and help to instil confidence in future development and innovation.

There is also an opportunity to simplify and clarify the FSCS rules for consumers in the pensions and investment space to support the FSCS in generating greater consumer awareness. Re-defining the advice/guidance boundary may complicate current rules further without explicit clarity.

Privacy and Electronic Communications Regulations (PECR)

Further work is needed to clarify how these proposals interface with the PECR direct marketing rules so that firms are confident about how, and when, they are able to use data and proactively engage with consumers. This will be particularly important for improving engagement in pensions. We encourage the FCA to carefully consider industry feedback on potential impediments to effective engagement with consumers and continue to work closely with the ICO, DWP and TPR to address barriers.

We would be happy to discuss these points further if required.

Yours faithfully,

[signed]

Matt Hammerstein
Chair, FCA Practitioner Panel