Adam Summerfield and Richard Wilson
Financial Conduct Authority
12 Endeavour Square
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5 September 2018

Dear Adam and Richard

FCA Smaller Business Practitioner Panel response to CP18/17 – Retirement Outcomes Review

The Smaller Business Panel is pleased to respond to the consultation on the Retirement Outcomes Review and the proposed changes to rules and guidance. We have responded to specific questions in the following pages but also have some general observations.

We are concerned that the general tone of the proposals is driving consumers towards guidance rather than towards advice. We believe that due to the complexities of consumers' situations the best outcomes are likely to be achieved by taking advice. In a situation where this is not possible, the objective should be to achieve good decisions, and in preventing the worst outcomes. It should not have the effect, even if unintended, of driving people away from advice, and that advice should be at the heart of any solutions.

Examples of complexities in consumers' situations which we have already seen arising include:

- there have been a significant number of incorrect HMRC PAYE codes and over production of tax on withdrawals. Consumers have not been aware of this or how to seek to make corrections or claim back overpaid tax which could lead to significant cash flow issues;
- there have been low levels of awareness about triggering the money purchase annual allowance and its tax implications;
- people do not always understand the tax implications of taking a cash lump sum and that they would benefit from doing so over 2 or 3 years using flexi-access drawdown.

It is impossible for the FCA to anticipate all the different scenarios individual consumers are facing. There is a risk of harm if the rules are too prescriptive around pathways, pensions transfers and cash withdrawals and as a result people end up in a worse position. Rather than taking a prescriptive approach we believe the FCA should focus on an overarching principle of what outcomes it wants the range of products and services to achieve, and work on facilitating a regulatory regime which enables firms to compete and guide their customers to appropriate decisions.

We have concerns about the numbers of consumers who remain invested in cash, even with sizeable pension pots. As a result, we consider that the changes, requiring investors to actively opt in to a cash solution, or to be offered an investment pathway, will go some way towards remedying this situation.

We would be happy to discuss any of these points in more detail.

Kind regards,

Craig Errington
Chair, FCA Smaller Business Practitioner Panel

Responses to specific questions

Q10. Do you agree that investment pathways should also be made available to advised consumers? If not, what would you suggest?

It is well documented that advised consumers achieve better outcomes than non-advised consumers. The solution provided to advised consumers is bespoke to their circumstances and investment pathways are therefore not needed. Further, their introduction would risk undermining the advice process and the superior outcomes achieved.

Q15: Do you agree that we should apply our remedies to the whole of the non-advised drawdown market, including SIPP operators serving this market? What would be the costs and how would the market respond?

And

Q16: Do you think we should consider carving out from our remedies those SIPP operators focused on advised consumers and sophisticated investors? If so, how do you hink we should do this? Should we consider an alternative proportionate solution?

And

Q17: Do you think that we should limit the scope of application of our rules on the investment pathways? What would be the impact on the SIPP market if we don't limit the scope?

The role of a SIPP operator is to facilitate self-investment rather than offer ready-made solutions. Guided pathways would run counter to this principle. SIPP savers are engaged and do not have the same issues as non-engaged consumers that guided pathways are designed to address. Therefore it would be wrong to impose costly regulatory requirements on SIPP providers that run counter to their business model.

Q21: Should we not apply the remedy to non-advised consumers who have self-selected an investment strategy even though these consumers might benefit?

We do not believe the FCA should seek to challenge consumers' active choice. There are no defendable grounds for doing so without understanding the detailed circumstances and rationale for their decision. This is a very dangerous proposal which should be avoided.

Q27: Do you agree with our current thinking that a single, default investment pathway is unlikely to be suitable in drawdown? If not, please provide reasons why you disagree.

We believe that in practical terms while a single investment solution may not always provide the best outcome it may be less likely to give the worst outcome when compared to defaulting to cash, and therefore is worth consideration as a permitted option.

In addition, we feel there is a clear distinction between the wholesale market and SIPP providers in terms of scale. It is unrealistic and anti-competitive to impose such detailed product requirements and potentially a charge cap on this sector. A charge cap in particular risks stifling innovation of these more complex products if they are viewed as uneconomic to develop. As a result, we believe that SIPP providers should be exempt from these remedies.

Q28: Do you agree with the approach we are considering taking to require making investment wholly or predominantly in cash an active choice? If not, what would you suggest?

And

Q29: Do you agree with the approach we are considering taking in relation to mandating warnings to those making an active choice to invest in cash? If not, what would you suggest?

And

Q30: If relevant to you, what have you done – or what do you plan to do – about your current drawdown consumers who have already been 'defaulted' into cash until now, but who are unlikely to be best served by this investment strategy for the remainder of their retirement?

And

Q31: Do you think we should require firms to issue warnings to consumers who are invested in cash on an ongoing basis? If not, what would you suggest?

The Panel has significant concerns about the numbers of policyholders invested substantially in cash on an ongoing basis. We have encouraged the FCA to look again at how pension providers could nudge policyholders to consider how cash would not be appropriate which would solve many issues. This was discussed with the FCA as part of the work of the Financial Advice Working Group but providers were not able to give this guidance without falling foul of MiFID rules about an appropriateness test. Requiring consumers to make an active choice to invest in cash, and warning those who already have that their choice may not be appropriate, is a start. For this to be successful in encouraging them to make better investments the decisions they take must either be to an appropriate pathway, or it must be made clear that firms can guide them to a better choice without infringing the appropriateness rules.

Q32: Do you agree with the approach we are considering taking in relation to a minimum limit and the cooling-off period? What minimal limit would you suggest? If you do not agree with the approach we are considering taking, what would you suggest?

Cashing in small pots at the expense of a very small weekly income is not necessarily a bad decision and therefore we support this approach.

Q42: Do you agree that the summary information should show a one-year single charge figure expressed as a cash amount?

And

Q43: Do you agree that information in KFIs should be presented in real terms (that takes account of inflation)?

And

Q47: Do you agree that consumers should receive information on actual charges paid expressed as a cash amount?

The view of the Panel is that the focus should not be on charges or investments but should be on the individual's ability to manage their income withdrawals, as well as understanding when their fund could run out. This should be the objective of the product information, as well as helping the customer to appreciate the complexity of the product.

Q46: Do you agree that firms should regularly remind consumers to consider reviewing their decisions, particularly investment choices, rather than reminding them how to obtain advice?

Given the complexities of individuals' circumstances, and the way in which they can change over time, we would recommend that firms should continue to signpost to advice, as well as reminding consumers to review their decisions. Advice should be at the heart of any regulatory solutions.

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