

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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By email: cp19-05@fca.org.uk

Dear Adam and Richard

Financial Services Consumer Panel (The Panel) response to CP19/05 Retirement Outcomes Review (ROR): Investment Pathways and other proposed changes to rules and guidance

The Panel welcomes the opportunity to respond to this consultation. The Panel remains supportive of the FCA's proposals for the implementation of the investment pathways but we have several areas of concern we think the FCA should focus on:

- The information firms must provide to consumers when communicating the investment pathways - the FCA should be prescriptive. The findings of the FCA's Asset Management and Investment Platforms Market Studies indicate that consumers are not receiving clear, consistent and simple messages from providers. We urge the FCA to consider establishing a Working Group akin to the IA Fund Communications Working Group to ensure consistent, jargon-free language in consumer communications on investment pathways across the sector.
- The regulations must address access to affordable and impartial advice options for consumers at the right time in their decision-making journey. We would like to flag our suggestion that the FCA revisit the idea of a potential 'menu' of adviser costs and fees. The ideal should be that 'non-advised' consumers become 'advised' consumers, but this will not happen until adviser fees and costs are easier to understand and more transparent *before* an adviser is engaged.
- Consistency in the proposals relating to transaction costs disclosure - the proposal for costs and charges disclosure will create a different approach for workplace pensions where the FCA has prescribed a slippage methodology for implicit costs and personal and stakeholder pensions products. This will lead to higher costs of compliance for firms, which will be ultimately borne by consumers. The patchwork disclosures on what it costs to invest will confuse consumers.

We set out a further detailed response to the proposals below.

Yours sincerely

Wanda Goldwag

Chair, Financial Services Consumer Panel

Investment Pathways - consumer information and communication

We have misgivings regarding aspects of the consumer information and the objectives.

Section 6.21 of the consultation highlights *"the importance of the information that providers give alongside the objectives, and how this can help consumers understand the objective."* Consumer communications beneath the broader objectives should be consistent across firms.

The Panel understands why the FCA would prefer that firms have the opportunity to "refine and improve this information in the light of their own knowledge of consumers." But, the ROR is just one of several recent FCA studies - those focusing on the Asset Management¹ and Investment Platforms markets² are among the others - to have highlighted ongoing inconsistencies in the information given by firms to consumers and the often-poor quality of communication, despite FCA efforts to improve this area.

The Panel urges the FCA to:

- be proactive in regularly reviewing the information that firms do provide on pathways, ensuring it is in line with clear communications guidelines, TCF principles and any consumer testing carried out.
- be bold in communicating what it sees as good and bad practice in this area,
- take enforcement action where the standards of communication fall short of TCF and Principle 7.³
- Firms should also commit to ongoing testing of the language they use.

We have suggested in previous publications, including our response to CP18/17,⁴ that the FCA establish a working group to develop simpler, more consumer-friendly language that can be used consistently in non-advised sales. We feel consumer communication for financial services has not kept pace with technological progress, so consumers have limited time to devote to important decisions. Regulation should facilitate efficient disclosure. We are concerned that too many firms still write communication for the regulator as opposed to what is most helpful for consumers.

¹ <https://www.fca.org.uk/publications/market-studies/asset-management-market-study>

² <https://www.fca.org.uk/publications/market-studies/ms17-1-investment-platforms-market-study>

³ <https://www.handbook.fca.org.uk/handbook/PRIN/2/1.html>

⁴ https://www.fs-cp.org.uk/sites/default/files/fscp_response_to_retirement_outcomes_review_discussion_qs_20180809.pdf

As mentioned in our response to the discussion questions in the FCA's ROR paper⁵, the FCA should support and monitor the working group, and be prepared to take a more prescriptive approach if the industry does not adopt the simpler language that is needed. The IA Group's work on testing language and explanations on consumers could be extended to look specifically at the language, terminology and explanations for the investment solutions in the pathways.

Ongoing communications

The Panel agrees with the suggested annual statement and the information to be provided with it. This information should be clear and concise, arguably similar in level of detail to the two-page KIID template. Again, we believe the FCA should mandate a template for the annual statement. Consistency of format is important, particularly where consumers can expect to receive statements from more than one provider. It is proposed that if the consumer hasn't made any changes to their chosen pathway, every five years the statement would include an "enhanced prompt to the consumer to review their investment decision."

This would seem an obvious point at which to also remind consumers of the option to take professional advice or seek free, impartial guidance from the SFGB (as it is still referred to at the time of responding) in order to review their objectives, their progress towards them and the suitability of their chosen pathway. These are all factors that can change dramatically during retirement.

Independent governance of investment pathways

The Panel remains cautiously supportive of extending the IGC regime to cover investment pathways. It has been noted that the FCA intends to do some work on IGCs which is a welcome move given the delayed effectiveness review.

We urge the FCA to take this opportunity to ensure that IGCs have both the capacity and capability to provide effective oversight of investment pathways. This is a broader remit than their original focus on value for money. IGCs have the potential to perform a vital governance role in overseeing pathways, but unless it can be performed competently it may simply constitute a false security blanket that ultimately weakens consumer protection.

The choice architecture

The Panel agrees with the proposal to amend PERG to include investment pathways examples to reduce the risk of providers offering investment pathways in a way that could be perceived as a personal recommendation. However, the Panel believes the pathways could be better structured to increase the chances of people being directed to impartial advice or guidance when required. For example, when the consumer fails to select an objective, it is proposed that providers "should consider prompting consumer to take advice or guidance, presenting pathway objectives again, or providing further information to help consumer." This should also include clear signposting to sources of impartial advice (i.e. the adviser directory) and/or free impartial guidance (SFGB).

⁵ Ibid

Investment in cash being an active choice

We agree with the proposals. In particular, we are pleased that the additional content provided with the risk warning will include reminding consumers that “if they need more help they can take advice, or review information on the SFGB’s “website.”

As we noted in our previous response⁶, a simple risk warning about cash not being the best choice will not help the consumer understand what their next steps could be. For this reason, we suggest that the changes should require a ‘*prominent reminder*’ regarding the availability of advice and guidance highlighting the potential impact on a consumer’s future retirement options.

Firms should be encouraged to test the wording around cash balance risks (as they should the wording of other messages). It has become apparent from discussions around other FCA consultations that firms, on the whole, need to be much more proactive in conducting consumer research on their own messaging and wording. There is a particular opportunity to do this in cases where firms have to make regular warnings to customers who remain wholly or predominantly invested in cash even after initial warnings, so that they can learn from results and feedback and develop their messaging accordingly.

We are pleased that the proposals contained in CP19/5 contain more direction about the content of the risk warnings. Reminders about the pension pot being eroded by inflation and therefore whether it will be able to grow sufficiently to meet future retirement needs are useful messages to provide to non-advised consumers.

That said, we still have concerns about the implementation of the warnings and the potential for inconsistencies in the information supplied by different providers. It has already been demonstrated by the inconsistencies on annual pension statements and the current use of retirement risk warnings that some providers are much better at communicating complex messages to their customers than others. How well this important information is communicated will be dependent on whether you are the lucky customer of one of the providers that has embraced its Principle 7 duty.

We would like to see the FCA commit to reviewing the content of the cash risk warnings before they are distributed to consumers – perhaps through supervision teams - to ensure all obligations are met.

Actual charges information

Approach for the records providers should keep

We agree with the FCA’s proposals for the record providers should keep, as it will be essential to closely monitor the results of the warnings once they are introduced.⁷ We would suggest additional areas that should be tracked by firms and reviewed by the FCA as follows:

- The initial reaction of customers once they are presented with a cash risk warning – what action did they take?

⁶ https://www.fs-cp.org.uk/sites/default/files/fscp_response_to_retirement_outcomes_review_discussion_gs_20180809.pdf

⁷ See paragraph 9.53.

- The number of people who took up the offer of guidance after receiving a cash risk warning but before making a decision (this research might require the SFGB to monitor any increase in guidance sessions triggered solely as a result of the cash risk warnings). Perhaps a unique URL could be supplied that providers use for this purpose?
- The numbers of people who took regulated financial advice or at least asked the provider how to obtain advice once presented with the cash risk warning but before a decision was made.
- For those customers who changed their investment choice to invest in funds that were not cash based following receipt of the warning – how/why were these chosen?

Closer monitoring should be implemented as soon as the cash risk warnings are introduced in order to correct any flaws in the process at an early stage. We would suggest that the FCA monitor these outcomes closely with providers and revert to more prescriptive measures if it finds the warnings alone are not working.

Disclosure of charges

We agree with the principle that consumers should receive information on what they pay for products on an annual basis, expressed in a single pounds and pence amount. However, we are concerned that there will be inconsistency in the FCA's approach to costs and charges disclosure further creating confusion for consumers. The FCA has proposed a slippage methodology for DC workplace pensions (under PS17/20), and also as part of its implementation of PRIIPS.

It is therefore confusing that the FCA will not define the same methodology be applied for calculating transaction costs for personal and stakeholder pension schemes without an explanation as to why it will not do so in this instance.

There is a risk of confusion for both consumers and firms. We agree that transaction costs should be disclosed but think the FCA must be consistent in its approach to disclosure of transaction costs. We are aware that industry have expressed concerns with implicit costs disclosure. Any issues should be resolved so that the same methodology can be applied across the savings and investments disclosure requirements to minimise confusion. There is already potential for significant confusion between ex-ante, point of sale and post-sale disclosure on costs and charges as actual numbers become available for reporting. This proposal exacerbates this problem further.

The FCA should seek ways to harmonise the requirements under MiFID II and PRIIPS. This will benefit consumers and firms by minimising the cost of compliance.

In addition, we would like to understand why this proposal would not also be applied to a SIPP provider – particularly the five largest 'mass market' SIPPs which the FCA has identified as holding 87% of the non-advised plans that had entered drawdown via a SIPP the previous year.

We have mentioned our concerns before about the increasing similarity between mass market SIPPs or 'SIPP-lite' products and ordinary personal pensions and it will be increasingly important for consumers within those SIPPs to identify whether the charges they are paying are competitive.

It will be difficult for consumers to assess whether they are paying higher costs than anticipated if transaction costs are not displayed pre-sale, in the KFI.

Costs should therefore be broken down so customers can compare like with like. It is imperative that the disclosure is clear about what charges are, and are not, included in the overall price.

Implementation timeline

We are concerned about the potential harm that non-advised consumers will suffer during the 12-month implementation period.

These consumers will, in the meantime, be accessing their tax-free cash and defaulting into drawdown. Are there any measures that providers could implement as 'good practice' before then to mitigate these risks? This could perhaps be strengthening the message to customers to obtain guidance before proceeding. An independent guidance session will be able to articulate more clearly the choices that need to be made and identify those consumers who would benefit from regulated financial advice and help them find it.