

Telephone: 020 7066 9346  
Email: [enquiries@fs-cp.org.uk](mailto:enquiries@fs-cp.org.uk)

FCA DB Pension Transfers team  
Financial Conduct Authority  
12 Endeavour Square  
London E20 1JN

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By email: [gc20-01@fca.org.uk](mailto:gc20-01@fca.org.uk)

Dear Sir/Madam

**Financial Services Consumer Panel (the Panel's) Response – Advising on Pension Transfers GC20/1**

The Panel welcomes the opportunity to respond to this guidance consultation which is very much needed in the current climate given the extent of consumer harm that can arise from poor DB transfer advice. Pension transfer advice is likely to be the most important single piece of advice received by some consumers during their lifetimes, so it is critical that the quality is improved well beyond current levels.

The detailed examples the FCA has provided, alongside the guidance, leave little room for ambiguity for firms going forward. We hope to see a drastic reduction in the number of unsuitable DB transfers.

The Panel welcomes the clarification around costs disclosure which aims to make advice charges much more transparent and helpful for consumers.

The FCA must exert its assertive supervision to ensure firms are applying the guidance and in particular are offering the triage and abridged advice services appropriately. Given the volume of assistance the FCA has given firms over the years to clarify its expectations of DB transfer advice, the FCA must be ready and willing to take action against firms that continue to offer poor advice once the guidance is finalised.

The Panel suggests a review of how the guidance has been adopted in the first quarter of 2022, with the expectation that the FCA will in the meantime take swift action where it sees continuing poor standards. As we said in our previous response, specific attention should be paid to firms that concentrate their marketing on consumers in exceptional circumstances, or have a disproportionately high percentage of such consumers in their caseload.<sup>1</sup>

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<sup>1</sup> [https://www.fs-cp.org.uk/sites/default/files/final\\_fscsp\\_response\\_to\\_pensions\\_transfer\\_advice\\_contingent\\_charging\\_20191030.docx\\_.pdf](https://www.fs-cp.org.uk/sites/default/files/final_fscsp_response_to_pensions_transfer_advice_contingent_charging_20191030.docx_.pdf)

Finally, while the new rules and this accompanying guidance are intended to enhance the quality of transfer advice, their impact overall is also dependent on the size of the advice market. We would be deeply concerned if consumers experience detriment because they are prevented from accessing advice due to the inability of firms to obtain PI cover.<sup>2</sup>

Yours faithfully

Wanda Goldwag, Chair Financial Services Consumer Panel

## Consultation Questions

### **Q1: Do you agree on the intent and scope of this non-Handbook Guidance Consultation as set out in this Introduction?**

Yes.

### **Q2: Do you have any comments on how we have set out the high level regulatory regime for giving pension transfer/ conversion advice? If not, how would you expect it to be set out?**

No comment.

### **Q3: Do you agree with our guidance on how personal investment firms, manufacturers and distributors should meet the requirements when securing, manufacturing or distributing professional indemnity insurance? If not, please explain why, by reference to the Handbook rules.**

Yes.

### **Q4: Do you agree with our explanations on how firms should manage systems and controls and conflicts of interest to achieve the outcomes we expect when giving DB transfer advice? If not, how would you change them?**

The guidance provides a clear reminder to firms of their responsibilities and offers helpful examples of good and poor practice. A functioning market requires consumers to have confidence that the systems and controls in place are aligned with their best interests, or, where they are not, that enforcement actions and redress will be swift. Given the scale of the problem highlighted in the FCA's recent work on DB transfers<sup>3</sup> and the potential impact on poorly advised consumers, it is critical that firms take steps to identify and remedy weak governance arrangements as soon as possible.

### **Q5: Do you agree with our guidance on how pension transfer specialists can meet their continuing professional development requirements? If not, please explain why.**

Yes. Consumers need to be confident that their advisor undertakes good quality, and regular, CPD. In view of the delay till October 2021 to the change in the qualification requirements, the FCA might consider whether firms should be expected to focus their CPD on those areas that will help lift standards and knowledge to those enshrined in the new qualifications. However, CPD is not a substitute for first-hand practical experience.

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<sup>2</sup> <https://www.ftadviser.com/your-industry/2020/07/20/advisers-without-db-work-significantly-more-attractive/>

<sup>3</sup> <https://www.fca.org.uk/publications/multi-firm-reviews/defined-benefit-transfers-further-update>

**Q6: Do you agree with our guidance on how firms should meet their obligations when undertaking financial promotions for DB transfer advice? If not, please explain why.**

While the guidance is unambiguous, the Consumer Panel's own research into digital marketing<sup>4</sup> raises concerns about the scale of misleading advertising and the use of potentially exploitative, targeted advertising by financial services firms. Firms should not regard advertising as a legitimate way to blur the line between guidance and advice. It is critical that the relevant regulators monitor financial promotions and take prompt action when required to ensure consumers' best interests are considered.

**Q7: Do you agree with our expectations on how a firm should act, when working with unregulated introducers? If not, please state why.**

Yes, we agree. In reference to paragraphs 2.59 – 2.60, as we said in our response to CP19/25, payment for advice that is dependent on whether the 'product' is sold is commission, no matter how this is presented.<sup>5</sup>

**Q8: Do you agree with our guidance on how firms should disclose charges for DB transfer/conversion advice before giving advice? If not, please explain why.**

Yes.

**Q9: Do you agree with our guidance on how firms should deliver triage services?**

While the guidance sets out helpful examples, the Panel remains extremely concerned about the inherent conflict of interest when firms offer triage services given the potential for substantial consumer detriment and the unacceptably poor quality of advice currently provided. We suggest that the FCA seeks early indications of problems in this space (see also our response to Q16) by undertaking thorough analysis of the data collected from firms and demonstrating assertive supervision to ensure that consumers do not suffer harm.

**Q10: Do you agree with our initial expectations on how firms should approach the advice process and the scope of know your client information?**

Yes. The expectations are unambiguous and set an appropriate standard for the scope and detail of information that firms should collect from clients.

**Q11: Do you agree with our expectations on how firms should collect information on the client's personal and family circumstances and their assets and other pension provisions when giving DB transfer/conversion advice? If not, how would you amend the guidance?**

Yes. Distinguishing between a client's needs and wants by separating expenditure into *essential*, *lifestyle* and *discretionary* seems a helpful approach.

**Q12: Do you agree with our expectations on how firms should find out about the client's knowledge and experience when giving DB transfer/conversion advice? If not, how would you amend the guidance?**

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<sup>4</sup> <https://www.fs-cp.org.uk/consumer-panel/discussion-paper-digital-advertising-financial-services>

<sup>5</sup> [https://www.fs-cp.org.uk/sites/default/files/final\\_fscp\\_response\\_to\\_pensions\\_transfer\\_advice\\_contingent\\_charging\\_20191030.docx\\_.pdf](https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_to_pensions_transfer_advice_contingent_charging_20191030.docx_.pdf)

The complexity, timescales and absolute value of pensions necessitates that firms assume that consumers of pension products and services are in a default vulnerable position until proven otherwise. A careful and thorough investigation of a client's relevant knowledge and experiences will help provide information to support advice that is in the client's best interests.

**Q13: Do you agree with our guidance on how firms should assess attitude to transfer risk and attitude to investment risk for DB transfers/conversions?**

Yes. The guidance encourages firms to proactively identify potential areas of vulnerability, including lack of financial capability, in a client's current and future circumstances. A careful and thorough investigation of a client's attitudes to transfer and investment risks will help provide information to support advice that is in the client's best interests.

**Q14: Do you agree with our guidance on how firms should assess client needs and objectives? If not, please explain why.**

Yes. Implicit in the guidance is the requirement that firms prioritise clients' long-term best interests when advising on a transfer. The use of a series of open, rather than closed questions, is more likely to elicit information that supports advice in the client's best interests. Consumers are more likely to obtain better outcomes when advice is tailored to their specific circumstances and communicated to them in a way that they understand and can act on.

**Q15: Do you agree with our expectations on how firms should consider the scheme data?**

No comment.

**Q16: Do you agree with our guidance on how firms should deliver abridged advice and how they can identify clients who meet the tests for the carve-outs? If not, how would you change the guidance?**

We look forward to evidence of improved consumer outcomes resulting from the guidance on the delivery of abridged advice and identification of clients who meet the tests for the carve-outs. We remain concerned that firms with insistent clients will face a conflict of interest. In addition, some consumers may feel frustrated by the outcomes of abridged advice and so it will be important to track satisfaction levels and consumer behaviour to understand whether the abridged advice process is delivering its intended aims. Data on complaints, both from firms and the FOS, will provide early indications of issues.

**We have no comment for questions 17-19.**

**Q20: Do you agree with our explanations of how firms should demonstrate suitability? If not, please explain why.**

Yes. Firms that prioritise a client's best interests will be better placed to demonstrate the suitability of their advice.

**Q21: Do you agree with the guidance in the template in Annex 1?**

Yes. This seems a reasonable solution to combat some of the problems highlighted.

**Q22: Do you agree with the guidance in the factsheet in Annex 2?**

Yes.