Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES
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By email: cp18-17@fca.org.uk

Dear Adam and Richard

CP18/17 Retirement Outcomes Review: Proposed changes to rules and guidance

The Financial Services Consumer Panel (FSCP) welcomes the opportunity to respond to this consultation. We broadly agree and support the proposals, which are much needed to reflect the changing pensions landscape.[1]

The Panel has some broad points to make regarding the remedies, not all of which relate directly to specific questions, but where they do they have been highlighted.

Yours sincerely

Sue Lewis

Chair, Financial Services Consumer Panel

[1] http://corporate.postoffice.co.uk/our-media-centre#/pressreleases/redefining-retirement-over-half-of-over-65s-do-not-believe-the-traditional-concept-of-retirement-still-exists-2599413

Investment pathways

Consumer journey

The Panel supports the idea of investment pathways. However, the consumer journey to an active investment choice (Annex 1) needs to fit into the wider decision-making process that people go through when they want to access their pension pot.

The FCA's recent review of non-advised drawdown sales[2] highlights that "many customers are now choosing to access their benefits ahead of their intended retirement date. They appear to have already made the decision to enter drawdown before contacting firms. This means that some customers appear not to be open to exploring the full range of options available to them." Earlier and clearer wake-up packs should help. We also believe that consumers should be defaulted into Pension Wise guidance at this point, unless they choose to opt-out (because they have an adviser or simply don't want guidance). The guidance session should include a discussion of objectives, so that consumers are clear what they want to achieve, and how to find a provider.

The industry has expressed reservations about placing "obstacles" between consumers and their money. Providers are conflicted, so they would say this, but it is true that people won't take guidance if they perceive it simply as a hoop to jump through to get what they want. As well as being early, guidance should be quick, easy to access and add value. We know people value Pension Wise when they have used it.

Providers are already required to signpost their customers to Pension Wise. This is evidently insufficient. The Financial Guidance and Claims Act gives the FCA responsibility to make rules ensuring that consumers accessing or transferring their savings have either taken appropriate guidance or opted out of it. We believe an impartial organisation – in practice the Single Financial Guidance Body (SFGB) - should be responsible for managing this process.

Having made an informed decision to use drawdown, the next choice is that of provider.

The Interim Report found low levels of trust and engagement.[3] FCA data published earlier this year showed that 58% of drawdown customers and 57% of annuity purchasers stayed with their existing pension provider rather than shopping around for potentially more suitable options.[4] In the case of annuities, this figure is *higher* than it was prior to the pension freedoms.[5] Even more telling are the figures for non-advised sales: ABI data quoted in the Interim Report found that 94% of non-advised drawdown sales were to existing customers, compared with 35% of advised sales.[6]

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[2] https://www.fca.org.uk/publication/multi-firm-reviews/non-advised-drawdown-pension-sales-review.pdf
[3] https://www.fca.org.uk/publication/market-studies/retirement-outcomes-review-interim-report.pdf
[4] https://www.fca.org.uk/publication/data/data-bulletin-issue-12.pdf - pg 19
[5] https://www.abi.org.uk/globalassets/sitecore/files/documents/publications/public/2014/pensions/the-uk-annuity-market-facts-and-figures.pdf
[6] https://www.fca.org.uk/publication/market-studies/retirement-outcomes-review-summary.pdf

Simplified pathways will not help with choice of provider, and may even mute competition further. Without independent guidance or advice, consumers will be vulnerable to providers promoting their own products. The FCA found wide variation in the costs of drawdown. As well as default guidance, consumers need a clear comparison tool to help them find a provider that will deliver their objectives at the best price.

The objectives

Just to note that all three objectives entail keeping the money invested, albeit for a short time in the case of the second. Maybe the first objective should say 'regular/known income?' There is also the question of investment objectives within the third objective, e.g. investing for income (which would not necessarily be regular) or growth (with occasional withdrawals of capital). While the simplicity of the objectives is welcome, there is a risk of suitability issues and shoehorning. The FCA is right to resist any suggestion that the same investment solution could be used for all of the investment pathways, but that doesn't alleviate our concerns.

Would presenting two investment options under each of the three pathways, or offering, say, five pathways, really add greatly to the complexity?

Where providers are prepared to offer two investment solutions under the different objectives they should be encouraged to do so (but with two being the maximum). For instance, the objectives as they are proposed take too little account of risk (i.e. some consumers will be much more concerned than others about sustainability of income) and this could be reflected more explicitly in the pathways.

Clearly presented options, free from jargon, will keep the process simple, while increasing the chances of engaging consumers with how their money is invested.

Communicating investment solutions (Q4-9)

It seems the FCA does not intend to take a prescriptive approach to the investment solutions that form the investment pathways. This is understandable. However, there are certain areas in which a degree of prescription is merited.

For instance, "each investment pathway should have a description and a risk profile. Both must be communicated to the consumer clearly and prominently." The industry doesn't have a great track record on this, as evidenced by the Asset Management and Investment Platforms Market Study, the Interim Report of the Retirement Outcomes Review and our own work on automated advice services.[7]

We also previously called for the FCA to establish a working group to develop simpler, more consumer-friendly language that can be used consistently in non-advised sales. The FCA could ask the Investment Association's Investor Communications Working group to look specifically at the language, terminology and explanations for the investment solutions in the pathways.

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[7]https://www.fscp.org.uk/sites/default/files/final_panel_position_paper_online_investment_and_advice_services.pdf

The FCA should support and monitor the work of the 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 is already testing language and explanations on consumers, it would be good if this could be extended to investment pathways.

Architecture

There is a clear risk of pathways being framed or positioned negatively by firms and advisers if they are not in their interest, especially in vertically integrated firms where the business model is based on shifting the provider's own products/portfolios. It is unclear whether the proposed choice architecture sufficiently mitigates this risk.

Firms will be permitted to offer other investment solutions for non-advised consumers. But given the obvious potential for advantageous framing of provider products and services, we encourage the FCA to explore a non-advised equivalent of the RU64 requirement (used in relation to stakeholder pensions, requiring advisers to explain why a pension they were recommending was "at least as suitable as a stakeholder pension"), whereby providers would have to demonstrate that their own product or service is at least *as* suitable for the individual, as the relevant investment pathway. This should also apply to regulated advice – advisers should explain to their clients why they are recommending a solution that is not an investment pathway. This should include a comparison of costs and benefits between the most suitable pathway and the alternative.

Investment pathways and SIPPs

There is an argument for applying the remedies to SIPPs as part of the non-advised market, particularly bearing in mind the serious issues that arise time and again in relation to SIPPs. However, the pathways would simply not be relevant to large parts of the SIPPs market and there would be a risk of poorer outcomes for a minority of investors.

As the proposed remedies note, one option is to include a carve out for SIPP operators focusing on advised consumers and sophisticated investors. It is difficult to see how this could be achieved without a revised definition of what constitutes a SIPP. If there is to be some form of carve out there would need to be clear definitions of the different types of SIPPs that recognise the vast differences between the traditional bespoke or 'full' SIPPs (typically used by sophisticated investors) and the life office and platform-based SIPPs.

Regulation of SIPPs has not kept pace with the evolution of the market in the wake of the pension freedoms. Any extension of the proposed remedies to the SIPPs market should only take place once this has been addressed.

Investment pathways and Oversight (Q23-24)

At first sight, it appears sensible to extend the remit of IGCs to investment pathways. But the FCA's decision to delay an effectiveness review means that there has been no systematic assessment of the success, and failures, of IGCs to date. To entrust new responsibilities to IGCs without evaluation is a risk. We therefore suggest that the FCA carries out the review it planned a while ago, and develops a measure of capability to help ensure oversight of investment pathways would be effective.

Scope of pathways (Q17-22)

The Panel does not support the proposal that investment pathways should not apply to certain 'sophisticated' investors. High net worth individuals are especially susceptible to fraud and scams despite being considered 'sophisticated' consumers. The process for investment pathways should apply to all non-advised customers, irrespective of pot size.

We understand the need for proportionality, however, as we have highlighted in the response above concerning SIPPs, this market is now distorted. From the FCA's evidence in both the Interim and Final reports evidently, most customers entering drawdown (whether or not this is via a SIPP) are not 'sophisticated' investors – even those with large pension pots. Customers wishing to take control of their own investment strategy will tell their provider, and their ability to make their own choices will be self-evident. Specific rules regarding appropriateness tests or other mechanisms to identify such customers are not necessary and would further confuse an already complex market.

The Panel's view is that the majority of customers will fall into the category of customer that needs further help/guidance before making a final choice and should therefore come within the new rules. As mentioned earlier, if guidance is quick, accessible and adds value, then the overall outcome should be positive.

The distinction between advised and non-advised sales and advice is confused enough without introducing further rules that will be meaningless to consumers and have the potential to be 'gamed' by providers.

Cash holdings (Q28-32)

The Panel understands the FCA's concerns over the number of individuals whose residual pension savings, after taking tax-free cash, remain wholly or predominantly invested in cash. We share those concerns as there is clearly a mis-match for customers ultimately wanting to draw an income from the remaining pot, and the ability to produce the returns necessary if they remain invested in cash.

Therefore, we agree with the proposal that this should be an active choice by consumers, although we do not believe the current proposal for generic risk warnings alone will achieve this – even if these warnings are repeated at regular intervals.

Consumers 'warned' that cash may not be the best choice if a future income is required, will not know where to invest and will expect to be directed by their pension provider. We are concerned, therefore, that some providers may encourage customers towards a certain pathway, without having to accept the liability of ensuring the suggested pathway is suitable. Others may refuse to provide further direction leaving the customer forced to make their own choices.

We believe the same arguments put forward earlier in our response concerning investment pathways apply here. Customers with cash holdings should be directed to SFGB guidance. 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.

However, for more consumers to feel comfortable seeking professional advice, the cost of that advice must be much clearer. The Panel suggests that the FCA revisit the idea of a 'menu' showing average fees for certain types of regulated financial advice. This must also coincide with better adviser cost disclosure.

People need to know what service is being offered and how much it will cost them upfront. The Panel would be happy to discuss with the FCA how this might work in more detail.

We support the FCA's proposals for a minimum limit of £30,000 before a cash warning notice kicks in, and the ability for firms to hold an investment in cash during the cooling off period.

We refer the FCA to our comments on investment pathways and SIPPs, above, as we think the same arguments apply if SIPP operators are prevented from defaulting customers into cash holdings.