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Dear Sir/Madam,

The Financial Services Consumer Panel (the Panel)'s response to the Stronger Nudge to Pensions Guidance

The Panel welcomes the opportunity to respond to this consultation on how the FCA's rules can increase the take-up of Pension Wise guidance. Whilst the Panel welcomes the opportunity to respond to this consultation on how the FCA's rules can increase the take-up of Pension Wise guidance we are disappointed that this is purely limited to 'nudges' rather than a wider consultation on ways to ensure the majority of consumers near retirement speak with Pension Wise.

We are concerned about the absence of robust evidence underpinning the effectiveness of a 'gentle' nudge to guidance. We welcome approaches that normalise guidance at regular or significant points in their lives. Efforts can then be focussed on minimising drop-out rates, rather than on increasing take-up. It is important to consider how the entire consumer journey can be used to ensure widespread take-up of pensions guidance. The FCA's [Call for Input](#) should help further shape policy in this area.

Our vision for pensions guidance is:

- Guidance as a normal part of the consumer experience, with appropriate opt-outs available
- A joined-up communications strategy by government and industry with the aim of normalising guidance at regular or significant points in consumers' lives
- Personalised information that activates consumers to seek guidance at appropriate points in their lives
- Consumers make informed and better decisions
- Firms act in consumers' best interests when giving guidance
- Benefits to wider society resulting from better informed consumers, including a reduction in the costs of fraud, compensation, and welfare
- Improved consumer confidence in the pensions industry and a reduced risk of another mis-selling scandal

Finally, we look forward to timely publication of the Policy Statement. It is essential that consumers access their pensions with the appropriate advice and guidance.

Yours faithfully

Wanda Goldwag

Chair, Financial Services Consumer Panel

Q1: Do you agree with our proposed approach on the trigger for the nudge?

Nudges should be applied when they will lead to the best outcomes for consumers
While it appears sensible to align the trigger with a consumer's decision to access their pension savings, many consumers will, for various reasons, be already committed to a particular outcome. Leaving guidance until consumers wish to access their pension savings increases the risk that they will either opt-out because they are already committed to a decision or receive guidance too late to help them make a better decision. Pension Wise data shows that 57%¹ of people using their service change their minds after receiving guidance. However, this data is based on a self-selected and relatively small group of consumers; in reality, many people who receive guidance at the point at which they access their pensions may not have the time, capacity, or inclination to change their minds. Guidance is more likely to be cost-effective and lead to better outcomes for individuals and society if the nudge is triggered by other events or circumstances prior to a desire to access pension savings, for example, a life stage, particular indicators of vulnerability, or life events such as the birth of a child or a divorce..

Q2: Do you agree with our proposals to incorporate the delivery of the nudge into step 1 of our existing retirement risk warning rules?

Yes, but the delivery of the nudge will need to be carefully and promptly monitored through the collection of appropriate data to check that firms are not gaming the process.

Q3: Do you agree the explanation of the nature and purpose of guidance does not need to be prescribed?

Yes, but the design, implementation and delivery of the guidance will need to be carefully and promptly monitored through the collection of appropriate data to check that firms are not gaming the process. This is an area where the proposed new Consumer Duty should lead firms to act in the best interests of their customers, by ensuring that as many people as possible access timely support before accessing their pensions.

We note that the proposed amendment to COBS 19.7.5 reads 'An example of a behaviour by or on behalf of a firm that is likely to contravene Principle 6 and may contravene other principles is for a firm to actively discourage a retail client from receiving pensions guidance...' This example can be strengthened by removing the word 'actively' to underline that any form of discouragement, active or implicit, is likely to be regarded as a contravention of the relevant principles.

Finally, it is not clear how information about consumers who say they wish to book their own appointment will be captured.

Q4: Do you agree with proposed approach to appointment bookings and opt-outs?

¹ <https://moneyandpensionsservice.org.uk/wp-content/uploads/2020/10/Pension-Wise-Service-Evaluation-report-2019-2020.pdf>

'Gentle' nudges are unlikely to lead to the necessary changes in consumer outcomes

No. The stated intention from Government is that guidance should be the norm for consumers wishing to access their pensions. Efforts to 'nudge' consumers into taking guidance, as reported in the Behavioural Insight Team's research commissioned by MaPS, had little effect on the very low level of take up across the entire cohort of potential consumers², and the Panel believes that that the approach tested had methodological flaws. For example, training by the providers ranged from a short-written briefing to a full day including role plays. In addition, the call handlers were permitted to amend the scripts, further reducing the reliability of the results. These problems mean that consumers' propensity to take up guidance under the current proposal will be highly dependent on the efforts and resources of the providers. Providers' inherent conflict of interest, together with the potential for foreseeable and avoidable harm, necessitates an unambiguous approach in order to maintain consumer confidence in the pensions industry and prevent another mis-selling scandal.

We note also that MaPS' data³ shows that those who decline to take guidance from Pension Wise claim to be the least and most knowledgeable – but levels of knowledge are self-reported and not robustly tested. There is a grave danger that the most vulnerable are the least likely to feel comfortable asking to get advice.

The approach proposed in this consultation assumes that consumers will regard a default opt-in to guidance as a barrier to their attempts to access their pension savings. This presumption arises from inadequate testing in the nudge trial, which missed an opportunity to compare responses to default opt-ins compared to optional appointments. We urge the FCA to consider default guidance as the most appropriate and effective means to achieve good consumer outcomes. In the meantime, we would welcome 1. plans to support firms in testing the efficacy and other outcomes of default opt-ins and 2. a joined-up campaign across the pensions industry that activates consumers to seek guidance at regular intervals and/or at particular life stages or events. Such messaging could boost the low levels of Pension Wise awareness and serve to normalise Pension Wise guidance, in a similar way to health checks at certain ages. It is highly likely that any short-term increase in the costs of providing guidance will be more than offset by the much larger costs associated with fraud, compensation, and welfare arising from consumers who make uninformed decisions.

Q5. Do you agree that where a consumer has previously been nudged and has confirmed receiving Pension Wise guidance, they do not need to be nudged again, unless it appears on reasonable grounds that the consumer could benefit from receiving guidance again?

Guidance should be regarded as a normal part of each consumer contact

No. Guidance received some time ago, perhaps during a different tax year, under different personal circumstances, or in relation to a different issue, is unlikely to be relevant to the current situation. Given the complexity of pensions and the poor level of understanding by the general public, it is reasonable to assume that more guidance is better than less. The burden of proof should therefore be reversed; that is, consumers should be nudged towards Pension Wise unless it appears that they are unlikely to benefit from receiving guidance again. This will ensure that the firm seeks to find out when the previous guidance was received and under what circumstances. Without this check, there is the risk that firms will not probe sufficiently and the opportunity to provide guidance will be lost, potentially leaving consumers to make uninformed and costly decisions. One of the major benefits of guidance is that it treats consumers

² <https://moneyandpensionsservice.org.uk/wp-content/uploads/2020/07/maps-stronger-nudge-evaluation-report-july-2020.pdf>

³ <https://maps.org.uk/wp-content/uploads/2020/07/maps-stronger-nudge-evaluation-report-july-2020.pdf>

holistically, rather than considering them as the customer of a particular pension pot. Given the very high satisfaction ratings for Pension Wise it is unlikely that consumers who obtain more guidance will be worse off than if they had not attended.

Q6: We welcome views on what would be the most relevant data for us to gather, and the most effective and proportionate way for providers to gather and submit this information.

In addition to the variables already proposed (opt-outs received, nudges delivered, appointments booked) and those included in the trial, a comprehensive set of data should be collected (perhaps for an initial period of 3-6 months) in order to monitor firms' behaviour and to ensure that any subsequent changes are based on robust evidence. This data could include:

- Guidance actually taken
- The number of repeat nudges
- Reason given for opt-out (the same categories should be used by all providers so that data are comparable and the FCA can identify any outlier firms)
- The number of consumers who say they will book their own appointment
- Demographics (age, gender, marital status, etc)
- Vulnerability flags
- Permission from customers to be contacted for inclusion in a longitudinal study to investigate e.g. the relationship between guidance and outcomes (and compared to advice or no guidance), as well as the reliability of self-reported high levels of knowledge about pensions (the main reason given by consumers who opt-out)

Q7: Taking into consideration the issues discussed in paragraphs 4.4 to 4.6, we would welcome views and any supporting evidence on whether allowing consumers additional time to consider the opportunity to take-up guidance could further increase/incentivise the take-up of guidance in a way that encourages them to engage with their pension access decision?

We support friction in the journey to access pensions as a way to protect consumers from making poor, potentially irreversible, decisions. The various options proposed, and any others subsequently submitted in response to this consultation, can and should be tested rigorously before being either dismissed or accepted on evidential grounds. Testing would allow a range of potential approaches to be examined and compared, as well as an opportunity to explore the risks highlighted in the consultation, alongside any mitigations. We welcome the FCA's openness to suggestions, and hope that firms act in the best interests of their customers by ensuring that they make informed decisions when accessing their pensions.

Q8: If you think it would increase the take-up of Pension Wise guidance, we would welcome views on how an opt-opt process could operate to further incentivise the take-up of Pension Wise guidance in a positive way?

Default guidance is likely to lead to better outcomes for individuals and society
Default guidance was rejected by Parliament on the grounds that a compulsory appointment could be perceived by consumers as a barrier to accessing pensions or a tick box exercise. However, default guidance does not need to be compulsory; it can be presented as a normal part of the consumer journey, with opt-outs available. Similarly, exercises that are ex ante regarded as 'tick-box' may be perceived differently after the event. We would therefore encourage the FCA to support firms in testing the effectiveness of default guidance alongside different options for opt-out. Robust evidence on consumer responses and outcomes should be collected rather than assumed.

Data on the likely numbers of consumers who will or won't take up guidance, and their reasons for doing so, would help MaPS to build the necessary infrastructure over the next 5-10 years, as well as indicate necessary changes in awareness campaigns. This time period would align with the shift in retirement income from DB to DC schemes, at which point the Pensions landscape will markedly change. Any increase in the costs of providing guidance are likely to be more than offset by the much larger costs associated with fraud, compensation, and welfare arising from consumers who make uninformed decisions.

If Pension Wise guidance does indeed lead directly to better outcomes, then those who do not receive guidance, are disadvantaged may experience significant harm. This has a consequence for wider society and the FCA should consider how consumers best interests should be served.

Q9: What would be the implementation challenges or unintended consequences with this approach and how could they be overcome?

Trials that are rigorously designed and implemented would provide a low-risk way to explore the challenges and test the outcomes of different approaches. These need to be done at pace in order to reduce the risk of continuing harm to those who make uninformed decisions.

Q10: We would welcome views on whether and how an additional earlier nudge to guidance could be introduced. Please include comments and evidence relevant to the factors listed in paragraph 4.11, as well as an indication of the likely costs and benefits.

We are very supportive of earlier nudges to guidance. Guidance is more likely to be cost-effective and lead to better outcomes for individuals and society if it is provided at particular life stages or as a result of particular events or circumstances, before consumers need to make a decision. Early and regular guidance is critical because active decisions, rather than default or no decisions, are key to good retirement outcomes, which in turn means good outcomes for society from reduced fraud, compensation, and welfare costs.

Q11: We would welcome views and any supporting evidence on what else we might do to increase the take-up of Pension Wise.

Q12: In this context, we would welcome views and any supporting evidence on what more we can do to support consumers to access the right information and guidance they need to help them make well informed decisions about accessing their pensions.

Default guidance and the use of clear, jargon-free communications that normalise guidance and activate consumers to seek or receive support are likely to increase the take-up of Pension Wise guidance

Default guidance offers the quickest and most effective way to increase take-up. Alongside this, improvements in pension communications can also have a positive impact on people's fears and cognitive/behavioural biases in relation to pensions and retirement:

- Recent academic research indicates that the framing of pensions communications can make a critical difference in activating consumers.⁴ This research shows that people respond twice as much to calls to action, for example, 'check your retirement plan' or 'make sure you have enough income during retirement' than

⁴ <https://www.sciencedirect.com/science/article/pii/S0167811620300938>

to other approaches. The Consumer Panel expects that the FCA's proposed new Consumer Duty will stimulate firms to make their communications much more effective by ensuring that make fully informed and timely decisions.

- Research commissioned by NEST offers some useful suggestions for framing the language of pensions in ways that resonate with consumers and are likely to activate them.⁵ For example, the phrase 'retirement income' has more salience than 'pot value'. Overall, the NEST report contains some useful points about how annual pension statements and general communications could be amended in ways to effect behavioural change. We welcome a standardised and consumer-friendly (ie inclusive) approach to the terminology.
- Consumers should be activated to seek guidance at particular life stages or events. For example, guidance is now increasingly offered at 'mid-life'. However, the general branding of this guidance as an 'MOT', with the associated connotations of pass or fail, is unhelpful and we would recommend a more positive and inclusive form of language, similar to that used to promote health checks for specific types of illnesses.
- Consumers are more likely to be activated to seek guidance if they understand that their decisions need not be a 'one-time' choice but can be adapted throughout retirement to fit their needs.

⁵ <https://www.nestinsight.org.uk/wp-content/uploads/2020/11/Beyond-the-defaults.pdf>