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FCA CONSULTATION

ADVICE GUIDANCE BOUNDARY REVIEW CP24/27

SUBMISSION BY THE FINANCIAL INCLUSION AND MARKETS CENTRE

Introduction

We are pleased to make a submission to such an important consultation paper. We fully support the FCA's goals outlined in CP24/27 to ensure more consumers get the support they need to produce better financial outcomes. But, we have serious concerns about the FCA's approach.

The FCA should be congratulated for the significant improvements it has driven through in conduct of business standards in the financial advice and investment markets through the Retail Distribution Review (RDR), and robust FCA supervision. The FCA's proposals in CP24/27 amount to a weakening of consumer protection and risk reversing the very real progress made. These proposals, if implemented as envisaged, also risk undermining the FCA's flagship Consumer Duty reforms.

We do appreciate the pressure the FCA is under from government and industry lobbies to redraw the regulatory boundary and to be seen to be delivering on the growth and competitiveness objective. We are concerned that these proposals will undermine the FCA's primary consumer protection objective without contributing to the objective of helping currently underserved consumers with modest financial assets to receive advice. We urge the FCA to rethink its approach. There are more effective, safer ways to address the challenges identified and deliver better consumer outcomes.

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Summary of concerns

- We have a number of concerns about the specific proposals in CP24/27. What the FCA proposes in CP24/27 would amount to a weakening of consumer protection standards and a limiting consumers' rights to redress to 'encourage' the market to sell more solutions and products to mass market consumers.
- We think the FCA's proposal is the wrong way to address the challenges identified in CP24/27. The FCA wants to create the conditions to 'encourage' firms to serve the mass market by moving the boundary of responsibility for poor outcomes away from firms towards consumers thereby limiting firms' liability for redress.
- Creating yet another concept called 'targeted support' using terms such as 'suggestions' will introduce even more complexity into the financial advice market making it harder for consumers to make informed, confident choices. Creating more complexity would enable firms to exploit consumer vulnerability to sell higher revenue generating, potentially riskier, solutions and products to the mass market.
- Describing this new type of service as providing 'suggestions' is potentially misleading. The FCA would be encouraging firms to design interventions, including behavioural interventions, with the express intent of persuading consumers to take a particular course of action. The proposed interventions are very different in nature and effect to providing information only and allowing consumers to make any subsequent decision. The FCA wants targeted support and 'suggestions' to have the same effect on consumer behaviour as personal recommendations. Otherwise, why would the FCA develop these proposals?
- Targeted support would, in effect, be sales *advice* and we think should be regulated as such. But, the effect of targeted support and 'suggestions' would be that firms would not have the

same degree of responsibility and redress liability if suboptimal consumer outcomes result as would be with personal recommendations – even though, to stress, targeted support is intended to have the same effect on consumer behaviour as personal recommendations.

Encouraging mass market sales advice delivered within a redrawn boundary, in a market where fierce competition has been shown to cause significant consumer harm, creates obvious risks.

- Even if the FCA includes some protections with the targeted support model and the Consumer Duty applies, logic dictates that the proposals would have to amount to a weakening of consumer protection and limit consumers' ability to obtain redress. If consumer protection standards were to be maintained then the regulatory boundary would not move and firms would still be unwilling to serve the mass market. Firms will only serve the mass market if they are given assurances that consumer protection is weakened and access to redress is limited.
- We support the idea of the industry using 'innovative' business models to reach underserved groups of consumers. We can see nothing in the current regime which prevents firms from developing innovative advice models while maintaining consumer protection standards.
- If firms really believed they could use targeted support responsibly then they should not object to retaining the current boundary and consumer protection standards. After all, if their systems and controls are so good, then there would be few incidences that would give rise to redress claims so they would not be exposed to high redress costs.
- Industry lobbies might argue that they are trying to close the advice gap in the public interest but the current regulatory boundary prevents them from serving mass market consumers. We think these arguments are disingenuous. We can see nothing in the current regulatory regime that prevents firms from using innovative business models to serve the mass market while maintaining current consumer protection standards. But, firms do not trust their own internal risk management and compliance processes when serving the mass market and fear the consequences of being exposed to redress liabilities. The fact that industry lobbies are seeking to redraw the boundary and limit access to the FOS speaks volumes.
- We believe the real motive is to change the regulatory boundary to facilitate sales of greater volumes of higher cost, riskier products while reducing the potential liability for redress. The goal is to improve the risk/return trade-off for firms at the expense of the consumer interest. The Consumer Duty would not act as a backstop in this case as firms would now be operating within a redrawn boundary.
- We think it is unlikely that firms will use targeted support to target consumers with modest assets. Rather they will use the opportunity provided by weakened consumer protection to target consumers with higher levels of assets and higher revenue-generating potential, safe in the knowledge that in the event of poor outcomes redress liabilities will be reduced.
- We are concerned about the risk assessment and theory of harm the FCA uses to frame its proposals. It does not provide a meaningful assessment of the downside risks of these proposals. The harm is primarily framed as occurring because the FCA *does not* introduce these proposals, rather than assessing what might happen if the FCA *does* introduce these proposals. Nor has the FCA considered alternative, safer ways to achieve the stated goals. Rather than weakening consumer protection to 'encourage' firms to target customers, the FCA should require firms to identify customers who may be in need of support in order to fulfil their Consumer Duty outcome obligations.

Response to specific questions

Question 1: In your view, do any of the proposals outlined in this CP adversely affect protected groups or vulnerable consumers and why?

Yes. The proposals to create yet another concept misleadingly as 'suggestions' will introduce even more complexity into the advice market making it harder for consumers to make informed, confident choices. Creating more complexity would enable firms to exploit consumer vulnerability to sell higher revenue generating potentially riskier solutions and products to the mass market. The proposals would move the boundary of responsibility for suboptimal outcomes from firms towards consumers and limit consumer access to redress.

Question 2: In the context of SIPPs, do you think we should differentiate between different types of consumers in the targeted support framework? If so, how?

No comment.

Question 3: Do you agree that there needs to be a threshold in place to provide targeted support? If so, do you think this should relate to delivering better outcomes or avoiding poor outcomes? Please explain your reasoning or alternative approach.

We think this is wrong way to approach the challenge identified by the FCA. If firms' customers could receive better outcomes if they received an intervention, then the FCA should be requiring firms to intervene as part of the Consumer Duty support outcome. Instead, the FCA is proposing to create the conditions to 'encourage' firms to provide support by moving the boundary of responsibility for poor outcomes away from firms towards consumers thereby limiting firms' liability for redress.

Question 4: How would you make a judgement of when the better outcome threshold was reached? What steps could the FCA take to support this judgement?

The FCA proposes a three step model for firms to use to identify whether customers might benefit from targeted support. This model could be adapted to require firms to screen their customer base to identify those customers who are likely to benefit from an intervention as part of the Consumer Duty support outcome requirements.

Question 5: Considering the more diverse consumer journeys in retail investments, how could we set the threshold for targeted support being provided in retail investments?

See above, the onus should be on firms to identify whether customers may need an intervention regardless of whether this involves pensions or investments.

Question 6: Do you agree with our proposal not to prescribe specific scenarios where targeted support could be delivered?

No. We think the FCA will need to be prescriptive in defining scenarios where targeted support can be used safely to minimise the risk of harm from the FCA's proposals. Not only should these scenarios be prescribed, very clear warnings will need to be given to consumers on how the targeted support approach will affect rights to redress and that they will be expected to take more

responsibility if things go wrong. Moreover, we think the FCA is underestimating how difficult firms will find it to operate in the Consumer Duty environment which relies more on high level principles and firms using greater discretion to determine whether consumer outcomes are being delivered.

Question 7: Do you agree with our proposal on ready-made solutions including that firms could suggest a new product? Do you agree that it should generally only capture support that constitutes a personal recommendation in the current framework? Do you have views on whether the targeted support regime should facilitate suggestions not involving a personal recommendation, and if so, how?

We do not think that the FCA's proposals will work in the way intended and indeed represent a risk to consumers. As explained above, as far as we can see there is nothing in the current regulatory regime which prevents firms from developing 'innovative' advice models to better serve the target market the FCA is concerned about.

Moreover, if the FCA is so concerned that large numbers of consumers are at risk or are not optimising their financial circumstances, for example they may be at risk of running out of money in retirement (see example on p9),¹ then the regulator could address this by making it clear that it expects firms to support customers as part of the Consumer Duty outcomes. The FCA sets out in para 1.12 how it sees targeted support working. Firms could use this model to fulfil their obligations under the Consumer Duty. The FCA does not have to weaken consumer protection (which will be the effect of the FCA's proposals) to address this issue.

The FCA's theory of change appears to be:

- i. Approaches like guidance appear to be ineffective at persuading enough consumers to make a decision and take action.
- ii. A different model of engagement is needed to 'encourage' firms to do more to persuade consumers to act - even though innovative advice models are already allowed in the current regime.
- iii. But, firms are concerned that engaging consumers via innovative advice models may still be classified as advice with the attendant regulatory responsibilities including liability for redress in the event of suboptimal advice being given. Firms do not have sufficient confidence in their own compliance and risk management systems to target the identified consumer populations using innovative advice models without running the risk of providing suboptimal advice and having to pay redress.
- iv. Therefore, to reassure firms, the FCA is in effect proposing to move the boundary of regulatory responsibility away from firms to reduce firms' liability for redress in the event of suboptimal outcomes. The FCA proposes using terms such as 'suggestions' for 'ready-made solutions' to convey that if a targeted consumer acts, it will be considered to as a result of a *suggestion* rather than a *recommendation*.

However, the important point to note is that, if the FCA wants to achieve the stated policy goal, then the proposed targeted support model should have the same effect as personal recommendations.

¹ Another example used by the industry is consumers sitting on large cash deposits earning low levels of interest when potentially higher return investments are available.

The overall point of the targeted support intervention is to cause consumers to act. The FCA appears to break this policy challenge into two parts – to persuade consumers to act requires providing reassurance to firms to encourage them to persuade consumers to act.

If it doesn't cause consumers to act, then it won't address the policy goal. If targeted support is to work, then it will need to have the same effect on consumer behaviour as a personal recommendation even if a different approach is deployed to create that effect. If it has the same effect, it is surely *de facto* advice, even if the FCA refers to it as a 'suggestion'.

We believe firms are well aware of this. We think the priority of industry lobbies promoting targeted support is to create the opportunity to sell higher volumes of riskier products and generate higher fees safe in the knowledge that firms' liability for redress will be reduced.

Clearly, the Consumer Duty would not be a substitute in the model proposed by the FCA. If the Consumer Duty retained the existing level of protection, then firms would not adopt the new targeted support model as their liability for redress would not be reduced.

To reiterate, we fully support the idea of firms using innovative advice models including scenarios, segmentation, and using ready-made solutions within reason and with safeguards built in to reach consumers including to comply with the intentions of the Consumer Duty outcomes.

Question 8: Do you agree with the three steps of pre-defining scenarios, consumer segments, and ready-made solutions? In particular we welcome views on the need to design these prior to the delivery of targeted support.

We have no objection to firms using a three stage approach to identify customers who may benefit from firms using innovative ways to identify customer needs and deliver advice as long as the current protections and rights to redress are maintained.

Indeed, we would suggest that, rather than weakening consumer protection to 'encourage' firms to support customers, the FCA should be requiring firms to identify customers who may be in need of support in order to fulfil their Consumer Duty outcome obligations. A three step process could be an efficient way for firms to identify those customers likely to need support.

We would go further and say that the FCA should be requiring firms to:

- i. conduct regular exercises, perhaps using such a three step process, to identify customers potentially at risk; and
- ii. report to the regulator with an assessment of how many customers are potentially experiencing suboptimal outcomes and what steps the firm intends to take to address the issues identified. After all, if the FCA thinks that firms could use such a process safely to identify customers to sell products to, this process could and should be used to ensure compliance with the Consumer Duty, the FCA's primary consumer protection mechanism.

Question 9: Do you agree with our proposed approach to the verification process including the application of the better outcomes threshold?

As mentioned, the FCA's proposals are risky. It is obviously very important that firms should be required to use robust verification processes. If the FCA insists on proceeding with these proposals, the regulator will need to significantly increase the level of supervision and sanctions to ensure firms do not exploit the weakening of consumer protection entailed. As explained, we believe the real goal behind industry lobbying for these proposals is to allow firms to target customers and upsell to products and services which generate higher revenue streams.

Firms will also need to have robust internal governance and risk management processes. It is very unfortunate that the FCA intends that firms will no longer need to have a dedicated Consumer Duty Champion. The 'Champion' could have provided an effective means of ensuring that firms were indeed using meaningful verification processes. We suggest that the FCA now require firms to identify a nominated senior person to confirm to the FCA that any verification has indeed been meaningful and to report any issues.

Question 10: Do you have any comments on the terminology, including 'targeted support' and 'ready-made solutions', we are using in this CP and its potential use in Handbook rules for firms?

We do not have any particular comments on the terminology. We do not think that the names used will make a meaningful difference to consumer understanding and appreciation of the nature of the 'advice' being provided in a pressurised real world sales environment.

The introduction of further variations and definitions of advice such as targeted support and ready-made solutions will just further complicate an already complex advice market. This will make it harder for consumers to understand the nature of advice they are receiving and their rights to redress in the event of being given unsuitable or inappropriate advice.

If the FCA insists on this new approach, it will be critical that the regulator requires firms to disclose in the clearest possible manner the implications of customers being sold products under via targeted support. They will need to be clearly informed that their rights to redress will be weakened.

Question 11: Does our proposed framework enable firms to provide targeted support where there is greatest customer need? Are there any examples where you would feel unable to provide targeted support based on the framework proposed? Would guidance around scenarios where targeted support could be delivered be helpful?

Question 12: Are there any other scenarios in which you envisage targeted supporting being provided in retail investments?

The examples included para 4.31 are a useful reminder of why defining a whole new type of advice, in this case targeted support, is not actually necessary and could result in greater confusion for consumers. We do not see anything in the current regime that prevents firms from using innovative ways to target customers who might benefit from advice on those examples in para 4.31.

Rather than try to 'encourage' firms to provide targeted support on issues such as those, we suggest the FCA should be requiring firms to provide support to comply with the Consumer Duty outcomes.

Question 13: Do you agree with our proposals in relation to advised consumers? Are there different considerations where a consumer is receiving ongoing advice or where a consumer has received initial or one-off advice about their pension?

We can see the case that firms with an existing advisory relationship with a customer could cause confusion by also offering targeted support. However, this could be a good opportunity to remind firms to double check that the holistic advisory services being offered still represent good value.

We are very concerned about the FCA's comments on an opt-out model. The FCA has not explained in detail what this would mean in practice. Further clarification on how this would work is needed.

Question 14: What are your views on our proposals for the design principles? In particular, do you have any comments on achieving appropriate oversight and competence?

We have no particular comments on the design principles other than to say that it should be expected that firms should already be using such a framework.

It is good that the FCA recognises the risks associated with targeted support and intends that the Consumer Duty should apply. But, herein lies the basic contradiction in the FCA's approach. As explained above the core of this issue is that firms do not trust their own internal risk management and compliance processes and fear the consequences of using concepts such as targeted support in the mass market.

By definition, if the application of the Consumer Duty to targeted support maintained the current standards of protection then firms would not be willing to adopt this new model to sell products to mass market consumers. Firms will only serve the mass market if they are given assurances that consumer protection is weakened and access to redress is limited.

It doesn't matter how many safeguards and processes the FCA proposes. If these were to be effective, firms won't serve the mass market to the extent the FCA hopes, as from the firms' perspective nothing will have changed. If firms are willing to sell to the mass market, this will mean that consumer protection has been weakened and the risks the FCA identifies will not be mitigated.

We fully appreciate the pressure the FCA is under to find a solution to the so called 'advice gap' and to demonstrate it is meeting the growth and competitiveness objective. But, we are concerned that these proposals will undermine the FCA's primary consumer protection objective without contributing to the objective of helping currently underserved consumers with modest financial assets to receive advice.

Indeed, we think it is unlikely that firms will use targeted support to target consumers with modest assets. Rather they will use the opportunity provided by weakened consumer protection to target consumers with higher levels of assets and higher revenue-generating potential safe in the knowledge in the event of poor outcomes redress liabilities will be reduced.

Question 15: Do you agree with this approach to ready-made solutions, including the restriction placed on the annuity journey and the annual review of the process? Are there any other suggestions you think would not be appropriate due to targeted support being based on limited information? Please explain your reasoning.

Yes. We agree with the restrictions on annuities.

We note that the FCA itself points out, in para 5.19, that it wants targeted support to deliver ‘suggestions’ that would generally amount to a personal recommendation in the current framework. In other words, the FCA wants targeted support to have the same effects as personal recommendations but with reduced consumer protection attached.

Question 16: Do you agree with our proposal for setting the general parameters around the definition of consumer segments? If so, what should this involve and how could it be framed effectively in light of the existing ‘sufficiently granular’ concept? Please explain your reasoning.

No comment. We cannot provide a response as we are struggling to understand what the FCA means here. We will respond at a later stage when we see further elaboration of what the FCA intends here.

Question 17: Do you agree with our preference to take an outcomes based approach to verification, and how do you think this could work in practice? Would it be helpful if this approach was supported by rules or guidance on the data to use or not use? Please explain your views.

No. As with the response to Q9, an outcomes approach to verification will be very difficult for the FCA to supervise. This will be made more difficult once the requirement for a Consumer Duty Champion is removed.

Question 18: If you do not agree, please provide your views on alternative approaches including whether to prescribe in rules data firms would need to use.

We think the FCA will need to prescribe in rules the minimum data that firms should be required to use. The FCA should also ensure that firms use up-to-date, accurate data.

Question 19: What level of data do you think would be perceived by a consumer as suggesting the provision of holistic advice? Please describe these data points and the linked scenarios.

We are struggling to understand what point the FCA is trying to make here. Is the FCA suggesting that consumers would actively differentiate between the different types of advice (which would include targeted support in the future) depending on how much data firms request?

Targeted support is sales advice as it clearly not a general promotion and/ or provision of information, it is a specific intervention by a firm aimed at causing a consumer to take a course of action even if it does not involve a personal recommendation. If it wasn’t aimed at causing a consumer to act, then it would defeat the purpose of these reforms.

The introduction of yet another type of advice into an already complex advice market will cause further confusion. We do not think that consumers, who are not receiving holistic advice, would

differentiate between the different types of advice on offer so trying to determine a level of data serves no purpose in this case.

Question 20: Are there any specific considerations for restricting the use of data for targeted support in retail investments?

The emphasis should be on ensuring firms use the right data to produce the right consumer outcomes.

Question 21: How might firms seek to use pensions dashboard data for targeted support? In particular, we would welcome views on how firms may seek to use dashboard data as part of a consolidation journey in targeted support.

No comment. It is too early to say how dashboard data might be used safely – or even whether it will be possible to use it.

Question 22: Do you agree with our proposals with respect to stopping a targeted support journey above? What do you think is the best way to deliver requirements that achieve this? Please also share your views considering how consumers who share relevant protected characteristics would be impacted.

Yes. We agree that firms should stop the targeted support journey in those circumstances.

With regards to consumers with protected characteristics, the potential harm will arise from consumers being targeted with poor quality advice with limited access to redress, not from them being less likely to receive targeted support. Under the Consumer Duty, we would expect firms to be aware of and sensitive to the needs of all consumers regardless of their circumstances. This will be even more so in the case of consumers with protected characteristics.

Question 23: What is your view on the potential for variability in the provision of targeted support and do you consider that an industry standard or guidance may be helpful in providing a level of consistency?

We do not think it is realistic to expect that consumers would compare different suggestions. Undertaking such a comparison would be difficult enough in the current advice market which is already unnecessarily complex. It would be even more so if yet another form of advice is introduced.

Consistency will be important. This should be provided by introducing suitable standards and benchmarks for customer 'journeys' and products.

Question 24: Would any of these conduct standards not be appropriate to providing targeted support in retail investments?

We are unsure as to what is meant by this question.

Question 25: Should we consider any other conduct standards which are specific to targeted support in retail investments?

No comment.

Question 26: Do you agree that these 3 touchpoints are the main times at which firms should disclose information to consumers? If not, why?

Question 27: Do you agree with the key aspects of the minimum prescribed level of information required at each touchpoint? Is there any information that all firms should disclose in addition to the key pieces of information in 6.24 and 6.25, or any other stage? Should all of this information be prominently shown and not layered?

Yes, we agree that these are the main times at which firms should disclose information to consumers.

More importantly, the FCA should require firms to disclose to consumers in a very prominent position the potential consequences for consumer protection and redress in the event of things going wrong if they agree to this form of sales approach. This warning should also be included up front in any sales conversations with consumers.

As explained above, the FCA's proposals must involve a weakening of consumer protection. Otherwise firms would not use targeted support to sell more solutions and products to consumers. If existing standards of protection were retained, this would not address the claims by industry that the current regime is preventing them from serving the target consumer audience.

The FCA should specify the form of wording used at these disclosure points. These proposals risk becoming a targeted form of cold calling.

Question 28: Do you consider the conflicts of interests (SYSC 3 and 10) requirements sufficient to manage the risks from firms providing ready-made solutions which involve a specific product from their own product range?

Question 29: Do you agree that the sourcebooks described above do not require any substantive changes to ensure the effective delivery of targeted support with appropriate consumer protection?

As explained, we are very concerned about these proposals relating to targeted support. Targeted support will introduce unnecessary risks into the relationship between firms and consumers. The policy goal of better supporting mass market consumers could have been more safely and effectively met through other regulatory interventions.

So, any proposals to manage the risks should be understood as limiting the potential harm. SYSC 3 and 10, if compliance is properly monitored and breaches enforced robustly, should provide some protection. This will require much more intensive supervision by the FCA.

We would also urge the FCA to issue specific guidance on what constitutes value for money as part of the Consumer Duty. In our view, finance lobbies have been advocating for target support to create opportunities to upsell consumers into higher revenue generating solutions and products.

As mentioned above, we are concerned that the FCA plans to remove the requirement for firms to have a Consumer Duty Champion. Given the inherent risks with targeted support firms will need to have robust internal governance and risk management processes in place. It is very unfortunate that

the FCA intends that firms will no longer need to have a dedicated Consumer Duty Champion. The 'Champion' could have provided an effective means of ensuring that firms are not using targeted support irresponsibly. We suggest that the FCA now require firms to identify a nominated senior person to confirm to the FCA that targeted support is not being used irresponsibly and to report any issues.

Question 30: Do you agree with our proposals on the existing COBS 19 requirements? Are there any other aspects of our existing pensions regime we should be considering?

The first point to make is that para 7.19 explains that the FCA already requires firms to support consumers approaching and in retirement. Rather than introduce a risky new regime which will just add even more complexity to the advice market, the FCA could choose to use more robust interventions to ensure that firms are complying with these requirements and the Consumer Duty support outcome.

If targeted support is to be allowed to be aligned with COBS 19, 19.4, 19.7, and 19.10 then the FCA should require firms to issue clear risk warnings to consumers (with wording approved by the FCA) about the potential redress consequences of relying on targeted support.

With regards to col calling, the FCA has an important protection in place. COBS 4.8.2 says that:

A firm must not make a cold call unless:

1. (1)
the recipient has an established existing client relationship with the firm and the relationship is such that the recipient envisages receiving cold calls; or
2. (2)
the cold call relates to a generally marketable packaged product which is not:
 1. (a)
a higher volatility fund;

One of the claims made industry lobbies is that targeted support would allow firms to upsell consumers into potentially higher return products which could produce better retirement outcomes for those consumers. By definition, higher return products involve exposing consumers to higher risk, more volatile products. We urge the FCA to retain the protection in COBS 4.4.2.

Question 31: How do you consider targeted support and the annuity prompt rules could operate together to create a positive consumer experience?

We have no particular comment on this except to say that the FCA could require firms as part of their Consumer Duty support and value outcomes responsibilities to use the three step model outlined above to regularly check that customers are aware of the benefits of annuities.

Question 32: Do you agree with our proposed approach to fees and charges, including on the issue of cross-subsidisation? If not, please explain why and if you have alternative suggestions?

No. The FCA should require firms to make it clear to consumers there is an explicit charge for taking up this targeted support. This is supposed to be a service. If consumers believe there isn't a charge

there is a higher risk they will be upsold in higher revenue generating solutions and products and just pay for it that way. This would just mislead consumers.

Or we could end up with a situation where other consumers are subsidising targeted support without realising it.

If the FCA is not careful, we could end up with problems similar to those in the current account market where consumers believe there are getting a free service but pay for this in other less transparent ways.

The FCA should cap explicit charges and make it clear that if firms intend to upsell to higher cost products and solutions then firms should ensure that these costs are the main criteria in any assessment of value for money as part of the Consumer Duty obligations.

If the FCA does not require explicit charges, then there is a very real risk that targeted support will just become a mechanism for cold calling and aggressive sales with concealed charges rather than an attempt to provide a support service.

Commission or equivalents should not be allowed.

Question 33: For firms, based on our proposals, how do you intend to charge for your targeted support services, either directly or indirectly, and how do you anticipate your approach would affect existing fees and charges? Please provide as much detail as you can, including details about specific fees across your business?

No comment.

Question 34: Do you consider that, in principle, all authorised pension providers should be able to provide targeted support? Are there any types of firms whose business model makes them less likely, or less appropriate, to provide it? We are particularly interested to hear from SIPP operators on their interest in providing targeted support.

Yes. But, more importantly, as outlined above the FCA should be requiring providers to use the three step model to regularly assess whether their customers are getting good value as part of the existing Consumer Duty obligations.

Question 35: Do you think that advisers could provide targeted support based on the conduct framework we have proposed? If so, how do you consider appropriate consumer understanding of the service could be achieved?

Question 36: Are there any types of advice firm business model you consider to be well placed to deliver targeted support? For example, a pension provider which has an 'advice arm' to their business. Please explain your answer, providing examples if possible.

Question 37: Do you see any reason why advisers should be able to provide targeted support in relation to broader retail investments and not pensions?

We have no objection to advisers using innovative models to deliver advice to customers preferably if the current consumer protection standards are maintained.

If the FCA insists on going ahead with targeted support as outlined in CP24/27, then advice firms should be required to provide clear warnings to customers about the consequences for consumer protection.

Obviously, firms that hold themselves out as independent financial advisers should be required to make explicit charges for providing this new service. The FCA should also make sure that advice firms did not use the opportunity to increase fees for holistic advice.

Question 38: Do you think there is a valid case for requiring all pension providers to provide targeted support? Please explain your reasons.

We have no particular view on whether all pension providers should be required to provide targeted support. The more important issue is for the FCA to require adviser firms to regularly monitor customers situation perhaps using the three step model or something similar outlined in the CP.

Question 39: Do you think consumers should be able to complain to the Financial Ombudsman and bring claims to the FSCS in relation to targeted support? If not, why?

Of course. Moreover, if the FCA goes ahead with the proposals as framed then it is critical that firms be required to explain clearly to potential users the potential consequences for consumer protection and redress.

The FCA may well intend that consumers would still have access to redress and compensation. But, it is clear that these proposals would result in moving the boundary of responsibility for suboptimal outcomes towards consumers away from firms. Otherwise, firms would not adopt targeted support. The claim is that the current boundary hinders firms' ability to serve the mass market. Moving the boundary of responsibility would clearly limit consumers rights to redress.

Question 40: Do you think our proposed conduct framework gives enough regulatory certainty for firms to implement targeted support commercially, taking into account potential redress liabilities? Please explain your reasoning and where more detailed rules would be helpful.

Question 41: In which aspect of the framework (eg verification process, aligning ready-made solutions to consumer segments) do you see the greatest liability risks arising? What controls would you put in place to manage these risks?

We are very concerned at the way the FCA is framing these proposals and trying to create such a favourable environment to encourage firms to sell potentially risky and poor value solutions and products to the mass market. The FCA appears not to have considered alternative more consumer focused and safer ways to achieve the stated policy goal.

Question 42: Do you think targeted support, as proposed in this CP, could be delivered effectively to a wide market of consumers based on the existing direct marketing regulatory framework? If not, why not and what would be helpful to enable this effective delivery?

It seems clear that the FCA's proposals as presented would constitute direct marketing and a form of cold calling.

Question 43: Do you agree with our assessment of the harm in the market and drivers of it?

We fully support efforts to ensure more consumers get better outcomes. But, we are particularly concerned about the lack of a comprehensive, balanced risk assessment and the reliance on a partial theory of harm model. The emphasis in the theory of harm is on the supposed harm created by the current regulatory regime. There is a very limited risk assessment of the impact of the proposals in this CP.

The stated goal of helping consumers achieve better outcomes and making the advice market work better could be pursued more safely within the existing regulatory regime using the Consumer Duty. The Consumer Duty was meant to ensure that firms took their duty of care to customers more seriously.

If firms are aware that numbers of their customers are experiencing poor outcomes of the type outlined in the CP, then firms should be required by the FCA to act under the Consumer Duty support outcome. If firms are unaware that large numbers of their customers may be experiencing poor outcomes, then this calls in to question their commitment to the Consumer Duty outcomes.

A form of the three step model outlined in the CP could enable firms to proactively and regularly monitor their customer base.

Question 44: What other regulatory and economic changes in the pensions and financial advice space will impact the effectiveness of targeted support?

No comment.

Question 45: Do you agree with our assessment of how targeted support could mitigate market failures and reduce harm?

No. As mentioned, we are concerned that the risk framework and theory of harm included in the CP provided very limited evaluation of the risks to consumers that would arise from introducing targeted support as currently intended.

Specifically, in terms of competition, the FCA's intention that targeted support should be 'free' risks introducing the type of market distortions evident in the current account market.

The FCA does not seem to have considered that firms might use targeted support as envisaged to target and upsell solutions and products to consumers with medium-high levels of wealth rather than try to help consumers with modest assets, safe in the knowledge that firms' liability for redress will be reduced.

Moreover, the harms identified and desired policy goals could be addressed more effectively and safely if the FCA applied the Consumer Duty more robustly.

Question 46: Given the proposed targeted support framework set out in this CP, what types of costs do you as a firm anticipate facing up front and on an ongoing basis? Please provide any evidence, indicative estimates or financial modelling that you have carried out as part of your response.

No comment.

Question 47: Based on the targeted support framework set out in this CP, do you think providers of targeted support services (both vertically-integrated and non vertically-integrated) would seek to differentiate their targeted support service to encourage adoption by mass-market consumers? For example, by differentiating the levels of investment in technology and data acquisition, the fees or charges levied (under all types of commercial models) or the scope / nature of targeted support propositions? Please explain your views, including any evidence you have used to inform these.

No comment.

Question 48: Do you agree with our assessment that targeted support may create risks related to mis-selling, biased selling or self-preferencing of products? If no, please explain why not. If yes, please outline scenarios or instances where risks may arise, and potential guardrails required to mitigate these consumer and competition harms.

Yes. The moving of the boundary of responsibility for suboptimal outcomes towards consumers away from firms, with the effect that firms' liability for redress will be reduced, weakens disciplining effects and obviously increases the risks of misselling.

As with the current account market, the perception of a 'free' service is likely to create distortions in the market and encourage biased selling of products.

It is difficult to see how 'guardrails' could be used to mitigate the risk of misselling and competition distortions and still retain the intention behind targeted support. To reiterate, firms claim they are wary of approaching the existing 'boundary' because of the current consumer protection regime. If the FCA applied guardrails that had the effect of retaining consumer protection standards then firms would be just as reluctant to approach the boundary.

It seems clear to us that the real motive for the industry lobbying for targeted support is to move that boundary to increase sales of higher-revenue generating solutions and products but with reduced liability for redress in the event firms sell solutions and products that create suboptimal outcomes. The intention is to improve the risk/return trade off for firms at the expense of the consumer interest.

Question 49: Please outline any other ways in which you think introducing targeted support may affect competition in the wider market for consumer support, including any areas we should consider further in our assessment of competition impacts.

We have nothing to add here as the FCA has identified the main competition concerns.

Question 50: Please explain how you think providers of targeted support services could design their provision in a way that complements their current or future business strategies. Where possible, please outline how you think providers may view targeted support services as a potential commercial opportunity, and why.

Targeted support provides an obvious commercial opportunity for firms. As explained above, we think the real motive for the industry's lobbying for targeted support is indeed to change the risk/return trade off and create opportunities to sell higher volumes of revenue generating solutions and products.

This marks the end of our response.

February 2025