

## **FCA CONSULTATION**

### **CP25/17 SUPPORTING CONSUMERS' PENSIONS AND INVESTMENT DECISIONS: PROPOSALS FOR TARGETED SUPPORT**

## Introduction

The Financial Inclusion and Markets Centre is a dedicated unit of the Financial Inclusion Centre which focuses on financial services policy and regulation, financial market reform, and evaluating the economic, environmental, and social utility of finance. The new unit also covers work evaluating the impact of developments at the intersection of finance and technology including AI.<sup>1</sup>

We are pleased to submit a response to such an important consultation. For further information, please contact Mick McAteer [mick.mcateer@inclusioncentre.org.uk](mailto:mick.mcateer@inclusioncentre.org.uk)

## Summary of our submission

We very much share the stated objectives of the FCA. But, we are concerned that the FCA's choice of intervention, targeted support, will not have the positive impact expected by the FCA. Yet, targeted support would represent a weakening of consumer protection and limit consumer rights of access to redress. Targeted support has two key elements.

- It involves a moving of the regulatory boundary so that greater responsibility for poor outcomes is moved to consumers away from firms, with consequent reduction in consumer protection standards and access to redress. This is at a time when the FCA is removing the need for firms to have a Consumer Duty Champion. Not only are FCA consumer protection standards under threat, there is a risk that important direct marketing consumer protections may also be weakened.
- What is described as targeted 'support' with 'ready-made suggestions' is in effect an opportunity for firms to use mass market, electronic cold calling techniques to identify potential consumer-targets to sell, upsell, or cross sell products to. This is not a regime which would require firms to prioritise supporting consumers. It enables firms to prioritise selling to consumer-targets. We believe the real motive of the industry 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. The Consumer Duty would provide a limited backstop in this case as firms would now be operating within a redrawn regulatory boundary.

The FCA refers to ready-made 'suggestions'. But, the FCA wants targeted support to have same impact as personal recommendations. So, we think describing this sales process as 'suggestions' has the potential to mislead consumers.

The FCA is further complicating an already complex market. Consumers will now have to differentiate between five different types of service – information only, guidance, simplified advice, targeted support, and holistic plus hybrid options – and understand the consequences of opting for those services, including the redress implications. This is on top of consumers being faced with a choice of literally thousands of pensions and investment products. It is difficult to see how this will enhance the effectiveness of consumer decision

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<sup>1</sup> [About | The Financial Inclusion Centre](#)

making. It is well documented that choice overload creates anxiety and undermines decision making.

Moreover, the targeted support reforms are unnecessary. The FCA already provides firms with permission to use innovative advice models to serve a wider consumer market. But, the crux of the matter is that firms do not trust themselves to use innovative advice models without breaching consumer protection standards. So, they asked for and have received a reduction in consumer protection standards and liability for redress.

We do not think that targeted support will do much to help consumers currently unserved or underserved by the market. Rather, it will enable firms to identify targets from the population of consumers with modest-high levels of assets to sell, upsell, or cross sell products to with reduced redress liabilities.

Not only is targeted support as currently presented likely to increase the risk of costly, suboptimal products being sold to targets, it is also likely to create competition issues. Large, vertically integrated firms including banks will have a significant advantage. They have what is in effect a captive market and access to data, to mine pools of potential targets to sell, upsell, or cross sell products to.

The FCA had a choice. It could have chosen to make markets work, rather than weakening consumer protection to 'encourage' the market to deliver. As we explain in our response to the questions below on the cost benefit analysis, the FCA could have chosen to achieve the stated goals through more proactive and robust application of the Consumer Duty Outcomes and making greater use of MoneyHelper and other non-profit sources of information. This would cause less disruption and less confusion, too, and would not result in a weakening of consumer protection standards.

Unfortunately, the FCA has chosen to design a system that suits the industry, not a system built around the needs of consumers. To add to the concerns, the investment industry is gearing up to launch a well-funded advertising campaign to promote the supposed benefits of investing in higher risk, higher cost investment products. Moreover, this campaign is supported by the FCA, HM Treasury, and the Money and Pensions Service (MaPS).<sup>2</sup> At the same time, FCA and TPR are implementing the Value for Money (VFM) agenda which will allow the industry to divert attention from the importance of costs and elevate the importance of investment performance even though we know that future performance cannot be predicted from past performance.

In other words, potential targets will be softened up, though the advertising campaign, for the hard sell using targeted support.

The proposals in CP27/17 represent a further weakening from those in CP24/27. The recommendations we make in our response are very much about damage limitation. The FCA should:

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<sup>2</sup> [Sasha Wiggins announced as Chair of UK's retail investment campaign](#) | [Press Releases](#) | [The Investment Association](#)

- 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.
- issue specific guidance on what constitutes value for money as part of the Consumer Duty.
- insert clear friction/ break points and cooling off periods into the targeted support process.
- require firms to ensure targets understand the segmentation process, assumptions made, and consequences for redress if they agree to be sold a product under targeted support.
- require firms to clearly communicate the impact of charges on investment growth and inform targets that better value options may well be available elsewhere and signpost targets to objective sources of information.
- prescribe the situations where targeted support can be used.
- prescribe what information firms should seek from prospective targets and require firms to verify that information.
- specify the types of circumstances in which firms are required to notify targets of changes to the products recommended during the original sales process, and what the range of actions the firms should take depending on the impact on the affected targets.
- require firms to notify the regulator when the products sold to target groups are being adapted along with the measures the firm intends to adopt to inform those affected of the potential impact of any adaptations and address the negative impact of adaptations.
- require firms to notify targets, not only of the changes, but the potential impact of changes.
- mandate the range of actions firms should take depending on the extent of the product changes.
- require firms to demonstrate that segmentation models and assumptions are robust and fair when applying for authorisation to use targeted support to sell products.

## Response to specific questions

### **Question 1: Do you have any comments on our proposed ‘better outcomes’ purpose statement?**

Targeted support is not only a weakening of consumer protection compared to the counterfactual of using the Consumer Duty to achieve the stated objectives, it actually threatens to undermine the Consumer Duty. Better rather than good outcomes. The FCA says that firms are not required to offer targeted support to comply with the Consumer Duty. But that offers little comfort. Firms could adopt targeted support to evade the need to comply with the Consumer Duty’s good outcome standard. Moreover, firms could easily claim that they had taken reasonable steps to deliver ‘better’ outcomes even if the improvement was limited. And of course the suitability standard in COBS 9/9A would no longer apply reducing the requirements firms would have to follow to ensure the right outcomes for consumers.

The FCA is also not proposing to prescribe situations in which firms can provide targeted support.

### **Question 2: Do you agree with our use of the term ‘better outcomes’ rather than ‘better position’? Would the choice of terms impact when and how you might expect to deliver targeted support?**

No comment. We do not understand the distinction.

### **Question 3: Do you foresee any challenges in meeting the requirements to ensure the suitability of recommendations made through the targeted support framework?**

The main challenge is that the targeted support provisions represent a weakening of consumer protection standards. The FCA has made it clear that targeted support will not be subject to the COBS 9/9A suitability standards even though the regulator wants targeted support to have the same impact on consumer behaviours as a personal recommendation, and for firms to be able to ‘suggest’ (in effect, recommend) specific products to targets. The Consumer Duty cannot substitute for those standards in the proposed regime. If it did, then firms would not be willing to use targeted support.

It is very worrying that the FCA considers that requiring all consumers exited from targeted support to be signposted to other forms of support to be overly prescriptive. The implications of this need to be understood. The FCA wants to introduce a regime with lower consumer protection standards to ‘encourage’ firms to use data insights to target groups of consumers. That is risky enough as it is. But, the FCA is also saying that if in the process firms uncover vulnerable consumers, firms would not be required to signpost those consumers to other forms of support. That is surely at odds with the aim of the Consumer Duty Support outcome.

**Question 4: When considering our proposals as a whole, are there any proposed requirements you think we do not need, where we can rely instead on the Consumer Duty? If so, please explain why the additional requirements contained in our proposals are not needed.**

As explained, the targeted support proposals represent a weakening of consumer protection standards. Therefore, there is no real scope for removing the additional requirements which would further weaken targeted support. If anything, further requirements are needed to protect consumers from the risks introduced by targeted support. For example, firms should be required to signpost vulnerable consumers to other forms of support. The FCA should also introduce specific governance rules on the use of AI and tech/data generally in the delivery of targeted support aimed at ensuring that the boards of firms have a deep understanding of the potential consequences of using technology. This is all the more important given that the FCA has removed the requirement for a Consumer Duty Champion.

**Question 5: Are our proposed rules sufficiently future-proof and outcomes focused to accommodate changes in technology? If not, why not?**

No, see Q4 above.

**Question 6: Are there any situations where firms want to deliver targeted support but based on our proposed rules would feel unable to do so? Please explain why.**

This question is aimed at the industry. Targeted support is a system designed to meet the demands and interests of the industry, not designed from the consumer perspective. It is a matter of concern that the FCA seems to be seeking further ways to accommodate the interests of the industry.

**Question 7: Based on our proposals in this paper do pension scheme trustees want to provide a form of support like targeted support to their members? If so, is this support intended solely for “in-scheme” benefits, or does it also include FCA-regulated investments?**

This question is not aimed at consumer representatives. But, we would say that it would be preferable if independent trustees played a bigger role in providing this kind of service rather than commercial for-profit financial services firms affected by inherent conflicts of interest and have an in-built tendency to cause consumer harm.

**Question 8: Do trustees have any practical examples of the support you wish to provide? Do you believe this is deliverable in the existing framework (ie can be delivered currently)? If not, why not? (For example, are there concerns about inadvertently carrying out regulated activities such as arranging?)**

N/A.

**Question 9: Do you have any other comments on our proposals around pre-defining situations to provide targeted support?**

As mentioned, we have concerns about the FCA's intention to not prescribe situations in which firms can provide targeted support. It is important that the FCA minimises the scope for harm under a proposed regime which represents a weakening of consumer protection.

**Question 10: Do you agree with our proposal that firms can make reasonable assumptions when designing targeted support journeys? If not, why not? In your answer, please set out examples of assumptions you may choose to make when designing targeted support journeys.**

**Question 11: How could firms decide between when to make an assumption and when to pre-define a common characteristic of a consumer segment?**

**Question 12: Do you agree with the rest of our proposals for the design of consumer segments in particular around excluding characteristics and the sufficiently granular principle? If not, what aspects do you consider need to be changed and why?**

The issues around segmentation highlight the flaws in the targeted support regime. Remember, even though firms would be 'suggesting' specific products and courses of action, the FCA wants targeted support to have the same effect on consumer behaviours as a personal recommendation.

But, to satisfy the interests of the industry, the FCA is designing a system in which consumers' rights to redress would be reduced compared to that available with a personal recommendation. Moreover, the FCA could have chosen to achieve its objectives through more robust use of the Consumer Duty rather than weaken consumer protection standards to incentivise the industry to deliver those objectives.

The FCA would remove the suitability standards including the requirement to understand a consumer's ability to bear losses. Instead, this would be replaced with a requirement to use limited data to identify 'common characteristics' and an ability to make 'reasonable assumptions' about consumers. The risks are obvious. Remember, at the core of this new regime is a transfer of responsibility from industry to consumers and a consequent reduction in ability to obtain redress in the event of poor outcomes.

The FCA says that in the cash-to-investment example given in paragraph 2.57, if a firm made assumptions about a consumer's willingness to take investment risk or investment time horizon, *it is likely* that a firm would *consider* it appropriate to communicate these in some way, either by disclosing them to the consumer, or by asking the consumer to confirm whether they were correct. Yet, inexplicably the FCA is not requiring firms to do so. It appears to be hoping firms will do so.

The FCA should require firms to communicate assumptions being used and, more importantly, check whether target groups do understand the assumptions being made

about them. This confirmation process should be more than firms asking target consumers to tick a box saying that they understand the assumptions.

The FCA should insert 'friction points' into the process requiring firms to proactively test consumers' understanding of the assumptions, in addition to firms being required to include prominent warnings about rights to redress being limited.

The FCA believes that advances in AI/tech/data insights will allow firms to safely and efficiently identify and segment potentially large numbers of targets into shared characteristic groups. In that case, then it is surely reasonable for the regulator to require firms to use the same insights to satisfy themselves that the targets understand the nature of this process and the consequences of being sold higher cost and potentially risky products under these circumstances.

As part of the ongoing supervision of targeted support, the FCA should proactively assess whether firms' segmentation models and testing processes are robust and take action against firms using suboptimal models and processes. The FCA is taking a major risk with targeted support. Tough supervision and sanctions will be needed to ensure firms' act responsibly.

As with the proposals on annuities, see below, there should be a break point and cooling off period between the firm:

- contacting the target (and explaining to the target why they have been approached, which segment they have been put into, and assumptions used) and testing the target's understanding of the assumptions used in the segmentation and redress limitations);
- making a ready-made 'suggestion', and telling the target that they should do further research and shop around; and
- making a sale.

The FCA is placing a great deal of trust in the ability of firms' to identify groups of targets with shared propensities to take risks, shared understanding of intertemporal investment risk, and shared time horizons. We are very concerned that the FCA is rushing through the implementation of targeted support without having first conducted robust ex ante assessments of the types of models and approaches likely to be used by firms to identify groups of targets and sell products. When firms apply for authorisation to use targeted support to sell products, the FCA should require firms to demonstrate that segmentation models and assumptions are robust and fair.

Some may argue that pension schemes already use a form of segmentation to profile scheme members into cohorts eg. for use in lifestyle. But, that is in a very different environment. With pension schemes, there are trustees in place to oversee this approach. Whereas, with targeted support, the goal in many cases would be to encourage firms to identify targets and sell them higher risk, higher cost investment products in a system with inherent conflicts of interest.



As mentioned, the FCA says that firms should only *consider* signposting vulnerable consumers to other sources of support rather than require firms to signpost. This will further undermine the potential of the Consumer Duty to support vulnerable consumers.

**Question 13: Would it be valuable to produce illustrative case studies to support firms in determining whether consumer segments are sufficiently granular? Would our choice to do this impact your intention to deliver targeted support?**

Given the inherent risks with targeted support, the FCA should prescribe in some detail the circumstances in which targeted support can be used and how firms should identify and segment targets into groups. Providing illustrative case studies will be insufficient to prevent firms exploiting the weakening of consumer protection standards that will accompany targeted support.

**Question 14: Do you agree with our proposals around the scope of ready-made suggestions, in particular, our proposal that the targeted support regime only captures support that constitutes a personal recommendation? In your response, please explain whether our proposal impacts how you wish to deliver targeted support to your customers?**

We have no particular comment on this other than to say that the explanation provided illustrates the additional complexity the FCA is introducing into an already complicated advice market. Consumers will now have to differentiate between information only, guidance, simplified advice, targeted support, and ‘full’ advice services (and hybrid services) as well as select from a proliferation of thousands of investment products.

The critical point here is that the FCA wants targeted support/ready-made suggestions to have the same effect on consumer behaviour as personal recommendations. Targeted support/ready-made suggestions sounds innocuous and positive. But, we need to be clear what it is. It is a new regime that would allow firms to identify targets and sell them potentially risky and costly products or ‘solutions’ but with rights to redress limited.

It is important that the FCA/MaPS raises consumer awareness of the redress implications of this new regime, and requires firms to explain clearly to targets that rights to redress will be limited in the event of poor outcomes.

It is also important that when the industry launches its new advertising campaign promoting the benefits of investments, the FCA ensures that clear risk warnings are incorporated about investments and the impending targeted support regime.

**Question 15: Do you agree with our proposals for targeted support on annuities, including banning suggestions for a particular annuity?**

**Question 16: Do you agree with our proposals for introducing a break between an annuity suggestion and the subsequent sales journey, to encouraging shopping around? If not, why not?**

Yes, we agree with the proposal to ban references to specific annuities and for introducing a break to encourage shopping around. However, this is likely to provide limited consumer protection. It is not hard to imagine a firm telling targets that they should look at MoneyHelper and then scheduling a further contact ostensibly to provide further support and answer any further questions, but with the actual goal to sell an annuity.

There should be a break point and cooling off period between the firm:

- contacting the target (and explaining to the target why they have been approached, which segment they have been put into, and assumptions used) and testing the target's understanding of the assumptions used in the segmentation and redress limitations);
- making a ready-made 'suggestion', and telling the target that they should contact MoneyHelper and shop around; and
- before completing a sale, check the target did contact MoneyHelper, ask the target which annuities they had considered, and explain and justify why the firm is recommending a different annuity.

A two week period between telling the target to contact MoneyHelper and completing the sale seems appropriate.

We agree with the proposal to prohibit firms from referring targets to commercial services for the reasons outlined in the consultation paper.

**Question 17: Do you agree with our proposal to prevent firms from suggesting consolidation into or out of a particular product for the purpose of pension consolidation? If not, do you see any way in which targeted support could be used to help consumers with decisions about pensions consolidation including when given in conjunction with support that constitutes a personal recommendation?**

Yes, we agree for the reasons outlined in the consultation paper.

**Question 18: Do you agree with our proposal to exclude investments subject to marketing/distribution restrictions from the targeted support proposals, except where a component part of a suitable investment provides exposure to these products? If not, why not?**

**Question 19: If high-risk products were included, what products should be included? How would firms ensure the suitability of suggestions given these suggestions would be designed for consumer segments based on limited data?**

Yes, the FCA should adopt a precautionary approach to allowing firms to sell the highest risk products via targeted support. Targeted support introduces new risks into the advice market which would be compounded by allowing the sale of the highest risk products.

Even in cases where the high risk assets are a component part of an investment product, extra care needs to be taken. As part of the growth and competitiveness agenda, there is clearly a concerted effort underway to persuade pension scheme members and retail

investors to invest more in the high risk private assets such as private equity. In addition to being more expensive to manage than conventional fund management vehicles, these assets (and funds of assets) have questionable past performance track records and future prospects,<sup>3</sup> are opaque, and poorly regulated and governed with inherent conflicts of interest.<sup>4</sup>

So, it is important that the type of friction and break points outlined in Q12 above should be included in the targeted support sales process. It is particularly important that potential targets are informed about and understand the impact of the higher charges associated with private assets on net investment returns before agreeing to buy investment products containing private assets.

More generally, as part of its wider work on high risk investments, we urge the regulator to evaluate the claimed diversification benefits of holding private assets within portfolios. Promoters of private assets claim that these assets produce better risk adjusted returns than conventional public assets and that holding private assets within portfolios can provide diversification benefits.

But, the claim is based on two very doubtful connected factors – the use of the IRR measure for calculating returns and the supposedly beneficial effect of an illiquidity premium. The problems associated with the IRR are well documented.<sup>5</sup> There is a good case for saying that the illiquidity premium may be fundamentally misleading. Investors are supposed to be compensated for holding an illiquid asset yet the supposed return premium itself is suspect due to the methodologies used to estimate returns. The methodologies can also overstate the diversification benefits achieved by holding supposedly less volatile assets which do not move in line with public markets. But, we would question whether this diversification benefit actually exists or is an illusion caused by the valuation methodologies.<sup>6</sup>

**Question 20: Are there specific situations where firms might hold other information not covered by excluding characteristics that would render ready-made suggestions unsuitable?**

**Question 21: Do you agree with our proposals for firms handling additional information volunteered by consumers during the targeted support journey?**

**Question 22: Are there any other aspects of our proposed approach to the verification process which you consider need to be changed? Please explain your rationale.**

It is interesting that the FCA says in para 2.95 that *'In order for a firm to deliver targeted support at its own initiative it must have reasonable grounds to consider that their customer is in one of the pre-defined situations with a common financial support need or objective.'* This highlights the fact that the FCA could have achieved its stated goals by using its flagship

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<sup>3</sup> [The delusion of private equity IRRs](#)

<sup>4</sup> Is private equity actually worth it? <https://www.ft.com/content/55837df7-876f-42cd-a920-02ff74970098>

<sup>5</sup> [The Tyranny of IRR: A Reality Check on Private Market Returns - CFA Institute Enterprising Investor](#)

<sup>6</sup> [Private equity and the mark-to-market myth](#)

Consumer Duty reforms rather than choosing to weaken consumer protection and further complexify the advice market by introducing an entire new concept called targeted support to encourage the market.

If the FCA believes firms are in a position to identify targets with common financial support needs or objectives which it can then sell products and services to, then surely the FCA could require firms to use the same models and technologies to identify customers with common financial needs and proactively provide support under the Consumer Duty Support outcome.

However, the FCA has chosen not to use the Consumer Duty. So, the issue now is how to minimise the risk of harm. The segmentation process and specifically how firms use information to sell products and services to targets are a particular concern.

The FCA seems to think that firms will be able to identify ‘Goldilocks’ segments – not too broad and not too individualised. But, it is not clear how the FCA expects firms to do that. The current state of the various pension dashboard initiatives means they are unlikely to be in an acceptable state of readiness by the FCA’s timetable for targeted support to be used safely.

It is not enough that firms should be able to rely on the targets voluntarily supplying relevant information to firms. Firms should be required to ask prospective targets if particular circumstances apply to them. The FCA should specify the types of information firms ought to be reasonably aware of, and clarify what reasonable aware means. The FCA should also prescribe what information firms should seek from individual prospective targets and require that firms verify that information. It should not allow individual firms discretion to determine the type of information collected. For example, if firms are trying to persuade targets to invest some of their savings in investment products they should be required to establish if the targets have debts with other financial institutions, or already have investments elsewhere with other institutions.

This is in addition to the measures we propose in our answers to Q4 that firms should be required to refer vulnerable customers identified during the targeted support sales process and Q10-12 which would require firms to communicate to prospective targets the assumptions being made about them, ensure targets understand the assumptions and the redress implications of being sold products and services under targeted support (it is especially relevant that targets who have received regulated advice are clearly told of the consequences of being sold new products and services under targeted support), and insert friction points into the consumer journey when targets are being upsold products and services. We also make a number of proposals regarding the authorisations process – see below.

**Question 23: Do you agree with our intention around leveraging PROD and Consumer Duty to ensure consumer protection and that targeted support services are of high quality?**

We are concerned that the FCA, in the proposals set out in paras 2.108-2.122, does not appear to appreciate the risks inherent in the targeted support regime. Targeted support represents a weakening of consumer protection by moving the regulatory boundary of responsibility from firms to consumers and limiting rights to redress, and creates opportunities for firms to identify targets to sell products and services to on the back of an industry funded advertising campaign backed by government and the FCA. What might be termed '*softening up the targets for the hard sell*'.

Targeted support is not a new variation of advice or even a *support* service, it is a *sales* regime particularly with regards to situations where firms are targeting customers with savings to upsell them to higher cost, high risk investment products. In cases where customers are at risk of making poor retirement planning decisions, the FCA could have addressed this through the Consumer Duty Support outcome.

Within this context, the PROD and Consumer Duty regime will provide limited protection against the additional risks. With regards to PROD, firms may well try to ensure that products and services are well designed for a certain market. But, as explained above, there is a very real risk that unless the FCA introduces robust, specific measures in relation to segmentation models and information to be gathered on prospective targets, products will be sold to the wrong targets.

By definition, as the boundary of responsibility for suboptimal outcomes is being moved, the reach of the protection provided by the Consumer Duty will be reduced. Moreover, while the Consumer Duty might require firms to provide fair value, this will also provide limited protection. The FCA and TPR are pursuing a new Value for Money (VFM) agenda which will allow the industry to downplay the importance of charges and elevate the importance of past performance, even though past performance cannot be used to predict future performance. So, the Consumer Duty would not prevent firms from using targeted support to sell high cost, higher risk investment products to targets and still claim they are providing 'fair value'.

Given the risks that will be introduced by targeted support, the requirements in PROD and the Consumer Duty would need to be supplemented by additional specific measures relating to the segmentation process, the information relating to targets gathered by firms, and putting break points in the sales process – see above.

**Question 24: Do you agree with our proposal on monitoring outcomes and identifying significant adaptations of products? If not, why not?**

**Question 25: Beyond monitoring outcomes, are there any specific areas, with reference to our draft Handbook proposals, that you wish to provide comments on?**

First of all, we think it is misleading for the FCA to describe targeted support as a ‘one-off’ service. A firm may well cause a target to take a specific course of action as a result of a single targeted sales process (remember, the FCA wants targeted support to have the same effect on consumer behaviour as a personal recommendation).

But, that targeted selling activity will have ongoing consequences for the targets affected, with their rights to redress curtailed. So, it is important that firms are required to: monitor the consequences of targeted selling on an ongoing basis; and respond as soon as is possible to correct identified problems.

Given the risks being introduced with targeted support, we are concerned that the FCA intends to give firms significant discretion as to what action to take in the event of products being adapted. This is all the more concerning as the FCA has removed the need for firms too have a Consumer Duty Champion.

The FCA says that allowing firms discretion would be in line with existing rules. That may well be the case. But, we are talking about a potentially risky sales-based regime being (re)introduced to retail financial services with consumer rights, including rights to redress, being curtailed due to the boundary of responsibility being moved. Therefore, it is appropriate that the FCA adopts an approach that matches the risks being created.

It is concerning that the FCA thinks it would be appropriate for firms to consider whether it would be sufficient to notify the target that the product has changed and that the target [not the firm] may wish to consider the effect of this (see para 2.118). Alternatively, the firm *may* offer the customer targeted support again if that is feasible (ie. if an alternative ready-made suggestion is available).

So, not only is the FCA proposing to move the boundary of responsibility for recognising product suitability at the point of sale, it is proposing that understanding the ongoing potentially negative consequences of product adaptations also be the responsibility of the targets.

The FCA also says that it does not want firms selling products through targeted support to be judged ‘with hindsight’. Again, this is concerning. The FCA is at risk of being seen to support false industry narratives that firms are judged retrospectively in the regulatory/redress system. The FCA’s approach means that there is a risk that firms could sell products that apparently represented fair value at the time of the sale, but then could be ‘adapted’ to allow firms to extract more value later on.

There are a number of measures we propose to manage the risk of harm in these circumstances.

The FCA should specify the types of circumstances in which firms are required to notify targets of changes to the products recommended during the original sales process, and what the range of actions the firms should take depending on the impact on the affected targets.

The FCA should also require firms to notify the regulator when the products sold to target groups are being adapted along with the measures the firm intends to take to inform those affected of the potential impact of any adaptations and address the negative impact of adaptations.

The FCA should require firms to notify targets, not only of the changes, but the potential impact of changes. It should not be left to the target to try to estimate the potential impact of changes outside of their control.

The FCA should mandate the range of actions firms should take depending on the extent of the product changes. This might range from informing the target in the event of minor changes which would have very limited impact on the target (whether in terms of charges or terms and conditions), to requiring the firm to allow the target to switch without financial penalty to better value products and informing the target of their right to do so.

Elsewhere, we express our concerns that the FCA is not proposing to do enough to establish that firms' segmentation models are robust. But segmentation is one part of the sales package at the heart of targeted support. The other key part is the products firms will 'suggest' to targets (remember, the FCA intends targeted support should have the same effect on the targets' behaviours as a personal recommendation). Note that, with investment products, it is not possible to predict future investment performance but the impact of ongoing charges can be modelled. To address the risk that firms will apply large subsequent increases on product charges, the FCA should make it clear to firms that:

- it will examine targeted support business models during supervisory visits to establish whether firms had planned to introduce high ongoing charge and, if it concludes that the intention all along had been to apply high ongoing charges, then this would be subject to enforcement action; and
- in certain conditions, firms would be required to allow the target to switch without financial penalty to better value products and informing the target of their right to do so – see above.

**Question 26: Do you agree with the information that we are proposing firms would be required to disclose as part of a targeted support journey? Are there any additional aspects you think firms must disclose, for example, any reasonable assumptions made?**

It is very concerning that the FCA is taking a hands off approach to the expectations it has with regards to firms' responsibilities. For example, it says: 'We have considered whether to require firms to disclose any relevant assumptions the firm has made about the consumer segment (see paragraph 2.55). Instead, we propose that firms should *consider whether it is appropriate* to communicate these. For example, in a cash to investment journey, *it is likely*



*that a firm would consider it appropriate to communicate any assumptions made about a consumer's willingness to take investment risk or investment time horizon in some way.'*

This is surely not appropriate given the inherent risks with targeted support. The FCA should require firms to communicate assumptions being used and, more importantly, check whether target groups do understand the assumptions being made about them. This confirmation process should be more than firms asking target consumers to tick a box saying that they understand the assumptions.

**Question 27: Do you require any further guidance on the use of risk warnings in marketing for mainstream investment products?**

Presumably this question is aimed at industry respondents. However, we would say that the FCA should mandate the inclusion of prominent risk warnings and include clear guidance on what 'prominent' entails. This will be particularly important if firms are to be allowed to sell investment products containing private assets – see above. Moreover, it is important to recognise that risk in this case does not refer only to investment volatility and uncertainty. As mentioned above, firms should communicate clearly to targets the implications for redress if they agree to be sold a product via targeted support. Firms should be required to include prominent warnings about rights to redress being limited.

**Question 28: Are there any other aspects of our proposals around communications that you wish to provide comments on?**

Firms should be required to communicate clearly to targets that targeted support is a sales process, not an advice process, inform targets that better deals may be available elsewhere, and signpost targets to objective sources of information.

In addition, as outlined above, the FCA should insert 'friction points' into the process requiring firms to proactively test targets' understanding of the segmentation models and assumptions used. Given the FCA believes that advances in AI/tech/data insights will allow firms to safely and efficiently identify and segment potentially large numbers of targets into shared characteristic groups, then it is surely reasonable for the regulator to require firms to use the same tech/data to satisfy themselves that the targets understand the nature of this process and the consequences of being sold higher cost and potentially risky products under these circumstances.

**Question 29: Should we require that every consumer exited from a targeted support journey must be signposted to other forms of support? Or do you agree is it sufficient for firms to consider whether this is appropriate? Are there particular scenarios where this needs to be required?**

Yes, firms should require firms to signpost targets to other forms of support. However, signposting should not be limited to targets being exited from target support. As part of the sales process, firms should be required to inform targets that better deals may be available elsewhere and signpost to objective sources of information.



**Question 30: Do you agree with the proposed framework for costs and charges set out above and in draft rules?**

The FCA says that it has considered both its competition and consumer protection objectives when designing the targeted support framework. Yet, the targeted support proposals risk undermining both consumer protection and distorting competition.

As explained elsewhere, targeted support would move the boundary of responsibility for suboptimal outcomes to consumers with access to redress limited as a consequence.

The specific risks of allowing firms to provide targeted support apparently free of charge are obvious. Firms will have an ideal opportunity to target consumers with offers of a ‘free’ service and upsell the consumer-targets to high cost investment products which, assuming asset values continue to rise, will allow firms to extract significant value over the lifetime of the commercial relationship.

The Consumer Duty price and value outcome will provide limited protection. As mentioned elsewhere, the FCA and TPR are pursuing the Value for Money (VFM) agenda which will allow firms to divert attention from the impact of charges and elevate the importance of investment performance, even though past performance is no guide to future performance. Targeted support provides the ideal opportunity for firms to promote high cost active funds which will optimise revenue for firms. If the FCA is not careful, we could end up with problems similar to those in the current account market where consumers believe they are getting a free service but pay for it in other less obvious ways.

The second obvious risk relates to competition. Large, vertically integrated firms stand to particularly benefit from targeted support. For example, banks have what is in effect a captive market of customers with savings who could be targeted for upselling to high cost investment products.

The FCA might say that if competition concerns do emerge then these can be addressed at a later stage. But, this would not be a sensible approach as a significant amount of harm could have already occurred. It would be much more effective to intervene ex ante to minimise the risk of competitive distortions occurring in the first place.

The FCA should require firms to make it clear to targets that, even if it may look like there is no specific charge for targeted support, if they accept the ‘suggestion’ they could pay significant charges over the lifetime of the commercial relationship. Firms should be required to disclose up front the charges that would apply to the recommendation that forms the ‘ready-made suggestion’ for that segment.

As part of the Consumer Duty, firms should be required to inform targets that better value, ie. lower cost, options may be available elsewhere and signpost targets to objective sources of information. This is particularly important in cases where firms are recommending high cost actively managed funds.

**Question 31: Do you agree with the proposed application of existing Handbook requirements to targeted support? If not, please specify where additional considerations should be taken into account.**

The existing Handbook requirements and Consumer Duty requirements, if robustly monitored, supervised, and enforced could provide some protection. But, the FCA is not mandating how firms should report on compliance with the Consumer Duty outcomes, and the regulator has not issued clear plans for how it intends to police and enforce compliance with the Consumer Duty outcomes. Moreover, the FCA is removing the requirement for firms to have a Consumer Duty Champion. The 'Champion' could have provided an effective means of ensuring that firms are not using targeted support irresponsibly.

So, the lack of detail on how the FCA intends to supervise and enforce its flagship Consumer Duty regime, mean we cannot say how much protection the Duty is actually likely to provide. This is concerning given the inherent risks with targeted support.

Even if the existing Handbook and Consumer Duty outcomes were robustly enforced, this would not be enough to protect consumers targeted by firms under the proposed targeted support regime. Additional measures will be needed.

The FCA should:

- 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.
- issue specific guidance on what constitutes value for money as part of the Consumer Duty.
- insert clear friction/ break points and cooling off periods into the targeted support process.
- require firms to ensure targets understand the segmentation process, assumptions made, and consequences for redress if they agree to be sold a product under targeted support.
- require firms to clearly communicate the impact of charges on investment growth and inform targets that better value options may well be available elsewhere and signpost targets to objective sources of information.
- prescribe the situations where targeted support can be used.
- prescribe what information firms should seek from prospective targets and require firms to verify that information.
- specify the types of circumstances in which firms are required to notify targets of changes to the products recommended during the original sales process, and what the range of actions the firms should take depending on the impact on the affected targets.
- require firms to notify the regulator when the products sold to target groups are being adapted along with the measures the firm intends to take to inform those affected of the potential impact of any adaptations and address the negative impact of adaptations.

- require firms to notify targets, not only of the changes, but the potential impact of changes.
- mandate the range of actions firms should take depending on the extent of the product changes.
- require firms to demonstrate that segmentation models and assumptions are robust and fair when applying for authorisation to use targeted support to sell products.

Some of these measures would be added to the COBS framework.

**Question 32: Are there potential risks with Appointed Representatives providing targeted support during the initial stages of the regime? Where risks could arise, please explain how those risks could be mitigated and/or balanced by the potential benefits of Appointed Representatives providing targeted support.**

We are minded to say that ARs should not be allowed to provide targeted support. The inherent risks with targeted support would be heightened if delivered via the AR regime. If ARs were to be allowed, then it would be even more important for the FCA to introduce the protections outlined above for principal firms.

**Question 33: Do you agree with the proposed application of the MiFID business, IDD, and designated investment business regimes to targeted support, including the proposed application of the COBS framework?**

Yes, we do agree that those regimes should be applied to targeted support. However, the existing COBs requirements are not sufficient to protect consumers from the risks associated with targeted support. The existing measures should be supplemented by the measures set out in our response to Q31.

**Question 34: Do any of our positions relating to COBS 19 adversely impact your intention to bring targeted support to market, or the effectiveness of your targeted support customer journeys? Are there any other areas of COBS 19 that you wish to raise?**

**Question 35: What specific changes are needed to investment pathways to enable the effectively delivery of targeted support to consumers when accessing their tax-free cash? Please consider how such changes can benefit consumers in light of the important role investment pathways currently serves.**

These questions are aimed at the industry. However, we would say that it would not be appropriate to allow information about targeted support, as currently conceived by the FCA, to be included in wake up packs or investment pathways. Consumers will come under enough pressure as it is from firms using targeted support.

**Question 36: Does the current prudential framework capture the possible risks from targeted support as a firm scales up its activities?**

No comment.

**Question 37: Do you believe that a bespoke scalar is required for targeted support, and if so, what metrics should the scalar be based on?**

No comment.

**Question 38: Do you agree with our approach to apply our complaint handling rules and guidance in DISP, including the compulsory jurisdiction of the Financial Ombudsman, to all authorised firms providing targeted support?**

Yes, we agree that firms providing targeted support should be subject to the compulsory jurisdiction of the FOS. But, as we explain elsewhere, the moving of the regulatory boundary to encourage firms to deliver targeted support means by definition the situations in which rights to redress are available will be reduced.

**Question 39: Do you think that the FCA and the Financial Ombudsman should publish specific guidance setting out how cases about targeted support will be considered?**

Yes. Moreover, the FCA, FOS, and MaPS should develop information packs explaining to potential targets the circumstances in which complaints may or may not be made and redress may or may not be available. Firms should be required to communicate this information clearly to potential targets.

**Question 40: Is anything else needed to give firms and/or consumers sufficient clarity and certainty about how cases regarding targeted support will be handled?**

The key point is that firms should be required to explain clearly to potential targets the redress consequences of being sold a product under targeted support.

**Question 41: Do you agree with the Financial Ombudsman's proposal to (a) exclude pre-regulation activities from the VJ and (b) expand the scope of the VJ to cover activities carried on after regulation day from an EEA or Gibraltar establishment?**

We do not see why relevant firms who do not agree to be subject to the VJ should be allowed to operate under the targeted support regime.

**Question 42: Do you agree with the proposal to allow FSCS compensation for claims relating to targeted support?**

Yes.

**Question 43: Does the issue of direct marketing rules representing a barrier to targeted support need to be resolved before firms offer targeted support?**

The current direct marketing rules represent an important protection for consumers. It is critical that these are retained as a protection against the negative consequences of targeted support. As explained above, targeted support as conceived by the FCA is better

thought of as a form of targeted electronic cold calling to soften up targets for selling products.

The core of our concerns about targeted support is the choice the FCA has made to achieve its policy objectives. It could have opted to use the Consumer Duty outcomes but instead it has chosen to introduce targeted support. Targeted support will cause unnecessary disruption, further complexify an already complex advice market, and require weakening of consumer protection standards to encourage the industry to use the new regime.

Not only are consumer protection standards provided by FCA regulations being weakened, it is worrying that it now looks as if direct marketing rules will be weakened to satisfy industry interests.

**Question 44: Do you agree with our agreed proposed approach to authorising firms who wish to provide targeted support? Can you suggest any ways in which our approach might be streamlined, whilst retaining the necessary robustness of our gateway?**

It is encouraging that the FCA at least will pay attention to the features outlined in para 8.8. But, the FCA has not explained in detail how it will evaluate firms' plans or segmentation models. So, it is too early to say whether this approach will be effective at preventing unsuitable firms from being authorised.

We are very concerned that the FCA is rushing through the implementation of targeted support without having first conducted robust ex ante assessments of the types of models and approaches likely to be used by firms to identify groups of targets and sell products.

The FCA should not be thinking about streamlining. The inherent risks with targeted support means that a precautionary approach is more appropriate at the authorisations phase. When firms apply for authorisation to use targeted support to sell products, the FCA should require firms to demonstrate that segmentation models and assumptions are robust and fair.

**Question 45: Do you agree with our proposal to not introduce new record keeping requirements which relate directly to the provision and outcomes of targeted support? Please explain the reasons for your answer.**

No. In addition to the data in Table 4, specific reporting requirements will be needed for targeted support including: the charges applied to products recommended; the revenue and profits (historic and projected) generated across the entire expected consumer journey (including the targeted support itself and initial and ongoing product charges generated); the risk rating of investment products recommended; and the numbers of targets signposted to objective sources of information.

**Question 46: How would you assess whether your targeted support service is delivering intended outcomes for consumers?**

This question is aimed at the industry. But, we would say that the FCA should mandate specific outcomes and metrics for firms.

**Question 47: Which specific advice and suitability requirements do you think should be reconsidered or modified in a revised COBS 9/9A to give firms the confidence to offer simplified advice while maintaining an appropriate level of consumer protection?**

This question is aimed at the industry. But, we would say that the FCA's proposals will introduce unnecessary, further complexity into the market. Encouraging 'hybrid' models will add even more complexity.

**Question 48: Are there specific aspects of FCA guidance (such as aspects of FG17/8) which you think are helpful (or unhelpful) and could inform our approach when proposing clearer rules and updating our Handbook guidance?**

No comment.

**Question 49: Do you agree that we should update our guidance on the advice boundary at the same time as we set out perimeter guidance for firms providing targeted support? Which FCA guidance on the boundary should we focus on keeping, reviewing and/or simplifying?**

Clearly, the FCA will need to update its guidance on the advice boundary given the disruption that will result from targeted support. However, more important will be the need for the FCA to:

- mandate the circumstances where targeted support can be used;
- prescribe what information firms should seek from prospective targets and require firms to verify that information;
- specify the types of circumstances in which firms are required to notify targets of changes to the products recommended during the original sales process, and what the range of actions the firms should take depending on the impact on the affected targets;
- require firms to notify the regulator when the products sold to target groups are being adapted along with the measures the firm intends to take to inform those affected of the potential impact of any adaptations and address the negative impact of adaptations;
- require firms to notify targets, not only of the changes, but the potential impact of change; and
- mandate the range of actions firms should take depending on the extent of the product changes.

**Question 50: Do you have any comments on our equality and diversity considerations (see Annex 9)?**

We do not believe targeted support will provide benefits for financially vulnerable, marginalised, or excluded groups including those with protected characteristics. The market is unlikely to be interested in targeting consumers with limited or no assets. If anything, targeted support will encourage firms to target those with assets to upsell them to higher revenue generating products.

In the case of groups of targets with assets but with other vulnerabilities, targeted support is likely to make them more vulnerable to being targeted by mass market electronic cold calling with access to redress limited. The industry funded advertising campaign is also likely to create opportunities for scammers to promote illegal investment activities.

**Questions on cost benefit analysis**

We are able only to provide high level comments on the CBA given the short time period allowed to respond to this consultation.

It is concerning that the FCA did not consider alternative options for achieving its stated policy goals. As explained, the FCA could have used the Consumer Duty Support outcome, with revisions if necessary, to require firms to identify and support customers in suboptimal circumstances. We believe this would have been a more effective intervention, with less disruption, and which would not have exposed consumers to unnecessary risks. Instead the FCA has chosen to introduce targeted support which represents a significant disruption to the market, further complexifies an already complex advice market, and would weaken consumer protection.

No doubt, targeted support will result in some additional take up of products and the FCA will be able to point to this as a sign of success. But, this would be a false comparison as the FCA has not considered or evaluated alternatives.

**Question 1: Do you agree with our description of the market, are there any key features which could impact targeted support which we have missed?**

We are not in a position to estimate how many firms will take up targeted support. No doubt, firms will benefit from increased revenues generated by selling higher volumes of higher cost products. Indeed, targeted support is a win-win for the market. It creates opportunities for mass market, electronic cold calling to generate openings to sell products but with liabilities for redress reduced.

No doubt, many firms will find targeted support an attractive proposition as this would enable firms to use mass market electronic cold calling to upsell higher risk, more profitable products and solutions to targets with significant cash deposits. Similarly, firms will likely see



targeted support as an opportunity to target better off consumers who currently received holistic advice in the knowledge that redress liabilities will be reduced.

But, we cannot see why the market would use targeted support to support those consumers with low or modest assets who are currently making suboptimal decisions. These groups do not represent a potentially profitable segment for commercial firms.

We agree there has been a significant individualisation of risk with the shift from DB to DC schemes and the pensions ‘freedom and choice’ reforms. Solutions are needed to help consumers deal with this risk individualisation. However, it is unfortunate that the FCA has opted for a solution that is likely to expose individual consumers to even greater risks. The FCA and TPR are actively pursuing initiatives to get consumers to invest more in higher risk assets without evidence that this would deliver better net of charge returns. But it is not only exposure to greater investment risk that is of concern. The targeted support reforms would represent a weakening of consumer protection so exposing consumers to greater risk of being sold unsuitable products with access to redress also limited.

**Question 2: What other harms related to the advice gap are occurring in this market?**

**Question 3: What else might be driving these harms?**

We agree generally with the harms the FCA has identified although as we explain below we very much disagree with causes of harm, the reasons for the so-called ‘advice gap’, and the solutions needed to address those harms.

One harm the FCA seems to have overlooked is the impact of high charges on retail investments driven by embedded market inefficiencies. Of course, consumers are not subject to the harm caused by high charges if they are not actually currently investing. However, targeted support will allow firms to use mass market, electronic cold calling business models to sell targets high cost retail investment products. The FCA is not proposing meaningful safeguards to protect against this harm.

The FCA’s estimates of the size of the various consumer segments are very helpful in bringing to light just how ineffective the retail financial services industry has been in meeting the needs of the general consumer population. The FCA’s research highlights that there are millions of consumers at risk of poor retirement outcomes, overinvesting, or investing in inappropriately high risk investments. The scale of market failure should have prompted a major regulatory intervention from the FCA using the Consumer Duty to require firms to support customers in difficult situations. Instead, the FCA is weakening consumer protection and rights to redress to try to encourage the market to address these market failures.

The FCA’s theory of harm is very partial and based on conventional theories of market failure and competition which have limited application in complex markets like retail pensions and investment markets.

The outcomes consumers receive depends on three main factors:

- Supply side factors: including market behaviours, structures, and efficiencies



- Legislation and regulation: which provide the ‘rules of engagement’ between firms and consumers
- Demand side factors: consumer behaviours, capability etc

The FCA seems to have focused on consumer behaviours and conventional explanations of market failure such as information asymmetries to explain the harms identified. It also seems to have accepted the industry’s view that regulation is a barrier and burden which contributes to that harm.

In theory, harm can be explained by information asymmetries and consumer behaviours. But, effective policy interventions depend on not only explaining drivers of harm but being able to act on those drivers of harms. And the history of financial services tells us that interventions aimed at changing consumer behaviours have just not been effective at promoting positive consumer behaviours or, even more importantly, exerting positive influence on markets.

We would argue that the main drivers of harm are supply side behaviours and inefficiencies, and failure of regulation to address structural causes of harm. Note, we are of the view that conduct standards have improved in retail financial services post the RDR and the FCA’s more robust conduct standards. But, the RDR was not intended to address the structural inefficiencies in markets which meant that large parts of the consumer population with low/modest assets were left unserved/underserved. We are also concerned that targeted support threatens to reverse the progress made as a result of the RDR.

The FCA has largely ignored the supply side in its theory of harm. The harms helpfully identified by the FCA are a powerful reminder of the failure of the market to serve the needs of the general consumer population. The FCA has not considered the embedded inefficiencies in the market which limits firms’ ability to serve large parts of the consumer population. It hasn’t considered the proliferation of products which enable confusion marketing and add to search costs.

At the core of this issue is the fact that firms do not trust themselves to use innovative advice models and the already very permissive rules in relation to advice to serve a wider market. But, rather than consider how consumer-focused regulatory interventions – including more robust use of the Consumer Duty – could be used to address the identified harms, the FCA has just accepted the industry view that regulation is a barrier and is planning to weaken consumer protection and access to redress to encourage the market to respond.

**Question 4: Do you agree with our description of how targeted support could impact this market?**

**Question 5: What other impacts might targeted support have?**

No, we do not agree with the assessment. We are not in a position to estimate how many firms will take up targeted support. No doubt, firms will benefit from increased revenues generated by selling higher volumes of higher cost products. Indeed, targeted support is a

win-win for the market. It creates opportunities for mass market, electronic cold calling to generate openings to sell products but with liabilities for redress reduced.

So, it is quite probable that we will see an increase in the number of consumers who are attractive to firms holding high cost, higher risk investment products. But, we do not see how these reforms will help consumers who are not commercially attractive to the market.

As well as limited potential upside, the reforms would introduce a number of risks – see above.

**Question 6: Do you agree with our assessment of the other options for intervention?**

**Question 7: Are there any other significant options we may have not considered?**

We agree that the alternative options listed would be unlikely to achieve the stated policy objectives.

For example, further clarifying the boundary is unlikely to make much difference. The FCA has already provided clarity and innovative advice models are already allowed. But, providing further clarity would not address the fundamental points that: i. embedded inefficiencies and ii. firms' lack of trust in their own ability to use the existing freedoms means they are unable or unwilling to serve a wider market. Similarly, further reforms to 'pathways' is unlikely to make much of a difference for the same reasons.

The FCA has also ruled out reducing suitability assessments for existing forms of advice and removing the ban on advisers earning commissions from investment products. However, looking at targeted support, it is likely to cannibalise existing advice provision so undermining suitability assessments anyway. Moreover, even if the FCA has rightly rejected removing the commission ban, targeted support would enable the use of mass market, electronic cold calling strategies to allow firms to sell high cost investment products. So, unfortunately, targeted support could well re-introduce the type of damaging aggressive market dynamics created by the use of commission.

Our main concern is that the FCA has not considered the option of using the Consumer Duty to achieve the stated policy objectives. It is hard to disagree with the FCA's intended outcomes. But, the FCA had a choice. It could use the Consumer Duty rather than creating a whole new type of service, further complicating the advice market, and weakening rights of access to redress which will be the case with targeted support.

There are two Consumer Duty options to consider here: 1. Could the FCA use the Consumer Duty as it is currently formulated to achieve goals? or 2. Would the FCA have to make some amendments to the Duty to achieve those intended outcomes?

We would argue that if the FCA was minded to, it could use the Consumer Duty Support and Understanding Outcomes, as it is, to achieve the intended outcomes of targeted support. In doing so, this would cover all firms that are subject to the Consumer Duty and FOS's remit. Even if it had to make some amendments to the Duty, this would still be more effective, less

disruptive, and *safer* than the upheaval caused by creating a whole new type of sales service (targeted support).

For example, two of the main case studies reference in the targeted support papers are ‘encouraging’ firms to help consumers recognise the typical challenges and risks associated with: pension drawdown such as unsustainable withdrawal rates or not understanding tax implications; and holding deposits in low earning savings accounts.

To address those types of issues, we do not think using the Consumer Support and Understanding Outcome would even have to be considered as a new advice/guidance ‘event’. To quote the FCA handbook, the Consumer Duty applies to ‘all support provided by a firm to retail customers, such as in the course of or in connection with the firm providing customer services, including: (i) **before, during, and after** any sale of a product; and (ii) support that does not relate to a specific product.’ The FCA also says:

‘Under the Duty, firms must act to deliver good outcomes for retail customers. Firms should aim to *continuously* address issues that risk causing consumer harm.’

‘The Duty sets a higher expectation for the standard of care that firms give customers.’

‘Firms are required to comply with the Duty’s cross-cutting rules by acting in good faith towards customers, avoiding causing **foreseeable** harm to customers and enabling and supporting customers to pursue their financial objectives. This requires firms to be **proactive** in delivering good customer outcomes....’

‘The Duty also requires firms’ management and Boards to use data to identify, monitor and confirm they are satisfied that their customers’ outcomes are consistent with the Duty. Firms must act when customers suffer poor outcomes.’ See: [Consumer Duty implementation: good practice and areas for improvement | FCA](#)

In other words, we would argue that if FCA was enforcing the Consumer Duty robustly then, as part of the Support Outcome, firms should be ensuring that their customers are receiving ongoing support after having received advice in the first instance.

The Support Outcome requires firms to ensure customers receive adequate and appropriate support to use financial products and services as intended. This includes making support easily accessible, providing clear information, and proactively assisting customers, especially those who are vulnerable. The Understanding Outcome would also then come into operation to ensure that communications were clear and appropriate etc.

The FCA wants firms to use data insights to identify categories of consumer who might benefit from targeted support. The FCA could require firms to do the same through the Consumer Duty. And if it used the Consumer Duty then this would not create the risk of consumers rights to redress being limited as it would be under Targeted Support.

The FCA would probably say that Principle 12 does not change the nature of a firm’s relationship with any given retail customer. In particular, it does not create a

fiduciary relationship where one would not otherwise exist nor require a firm to provide advice or carry out any other regulated activity where it would not otherwise have done so.

However, we would argue that the Support and Understanding Outcomes apply to existing relationships so we are not talking about creating a new fiduciary relationship or causing firms to carry out any regulated activity it would not otherwise have done.

Nevertheless, even if the FCA did maintain that the Consumer Duty was never intended to require firms to be this proactive, then that could be addressed by the FCA amending the Consumer Duty to make it clear that firms should be proactively identifying harm and providing support. As mentioned, this would be a much more effective, less disruptive, and safer way than Targeted Support. The FCA could not reasonably argue that it did not want to revise the Consumer Duty so soon after its implementation. After all, it is implementing a whole new type of sales regime through targeted which will cause disruption to the market. Even amending the Consumer Duty would be less disruptive and risky than introducing the untested targeted support.

The FCA might also argue that using the Consumer Duty would not provide a commercial incentive for firms to target customers. But under targeted support the FCA expects that many firms won't charge for Targeted Support itself but will make money from upselling consumers to other products. The same could apply with requiring firms to use the Consumer Duty to establish which customers need support and if they did need better products then they could upsell. So, the commercial incentive point does not stack up. But, the main point is that the FCA should be requiring firms to use the Consumer Duty as an obligation to identify consumers who are exhibiting vulnerability or behaving irrationally.

#### **Question 8: Do you agree with our assumptions about the baseline?**

We have no issue with the FCA's baseline assumptions. But, as explained elsewhere, we consider the FCA is being too optimistic about the potential upsides and has not fully appreciated the downsides. More importantly, it has not properly considered alternative options for achieving the stated goals without introducing unnecessary risks.

#### **Question 9: Which costs and benefits have we not considered?**

#### **Question 10: How else might we quantify costs and benefits?**

**Question 11: Do you agree with the assumptions we have made for our standardised cost model that have informed the one-off and ongoing cost estimates set out above? Please provide any evidence to support your response to this question.**

**Question 12: Given the proposed targeted support framework set out in this CP, do you agree with the cost types and estimates set out in this section? Please provide any evidence or indicative estimates that you have as part of your response.**

Unfortunately, we are unable to comment on the detail of the FCA's CBA given the limited time provided on this occasion to respond to the CP. But, we would say that the FCA's CBA

framework is clearly very well thought out and has captured the key component elements of potential costs and benefits.

What matters most with CBAs are the assumptions made about the impact of the various drivers of costs, benefits, and harms. We appreciate that is always very difficult to establish the strength of relationships between drivers and harms and estimate these impacts especially when it comes to prospective reforms not yet implemented. However, we are concerned that the FCA is overstating the potential benefits for consumers and downplaying the potential risks and costs.

In terms of the benefits for consumers, the FCA seems to believe that targeted support will to help consumers in three main ways: improved alignment of savings decisions and preferences, increasing welfare and, in many cases, return on savings, investments and pension (direct benefit); reduced fees and charges, as consumers are more actively engaged with reviewing their financial portfolio or pension (indirect benefit); and an increase in consumer confidence (and financial resilience) and lower psychological stress, driven by consumers engaging with targeted support and the expected improvements to wealth. We look at these in turn.

**Improved alignment of savings decisions and preferences, increasing welfare and, in many cases, return on savings, investments and pension (direct benefit):** No doubt, if firms are allowed to adopt mass market electronic cold calling tactics to target savers, there will be an increase in the number of consumers holding investment products. Whether these sales result in increased welfare will very much depend on the investment returns (which cannot be predicted) and the charges levied by firms. It is not possible to say whether these tactics will result in increased alignment of decisions and preferences as the segmentation and ‘ready-made suggestions’ models have not been tested. Firms will not be required to understand potential targets’ tolerance for risk. More fundamentally, the FCA has not analysed alternative options, such as using the Consumer Duty Outcomes to require firms to support customers, for achieving those benefits. So, it is not possible to evaluate whether targeted support will deliver positive outcomes compared to alternatives such as the Consumer Duty which have the potential for achieving the same objectives but with less disruption, without further complexifying the advice market, and without weakening consumer protection standards. The role of MoneyHelper and non-profits such as StepChange could also be boosted to allow them to play a bigger role in supporting consumers.

**Reduced fees and charges, as consumers are more actively engaged with reviewing their financial portfolio or pension (indirect benefit):** We are unclear as to how the FCA arrives at this conclusion. Targeted support would further complexify an already unnecessarily complex advice market. Consumers would be expected to differentiate and understand the consequences of choosing from five different types of service: information only, guidance, simplified advice, targeted support, and holistic advice – in addition to hybrid models. This is on top of having to choose between literally thousands of investment and pension products. So, if anything, further complexifying the market could actually cause consumers to disengage. The FCA’s consumer research is well designed but it cannot replicate the real world conditions consumers experience. Moreover, if firms behave responsibly and explain

to potential targets the implications for consumer protection and redress of being sold a product through targeted support, then we would argue this is likely to affect consumer confidence.

Therefore, if consumers are less able to engage with the market due to the increased complexity, it is difficult to see why this would drive down charges and fees. If anything, this will allow firms to exploit this greater confusion to extract more value through higher charges. Moreover, the FCA is not planning to introduce specific definitions of value, so there will be nothing stopping firms from recommending high cost, actively managed funds instead of better value passive funds.

**An increase in consumer confidence (and financial resilience) and lower psychological stress, driven by consumers engaging with targeted support and the expected improvements to wealth:** Again, it is unclear as to why the FCA has reached this conclusion. Consumers already face having to make complex choices and decisions in many areas of their lives. It is well documented that choice overload causes anxiety and stress. Targeted support would actually complexify the market and increase choice overload. Consumers will have to differentiate between five different types of service and understand the implications of segmentation models and 'ready-made suggestions'.

So, if anything it would raise anxiety and stress. As mentioned, the FCA's consumer research is well structured but it cannot replicate the real life conditions consumers have to deal with.

**Question 13: Do you agree with our assessment that there is a risk that vertically integrated firms could use their market power to limit the entry of firms offering targeted support?**

Yes. Vertically integrated firms, especially banks, have a significant advantage in terms of what is effectively a captive market and access to data. This is a golden opportunity to upsell to higher revenue generating investment products and cross sell other products. It is difficult to see how Open Banking or Open Finance will make much of a difference. It is concerning that the FCA's approach to the competition risks seems to be to wait and see. We argue that the regulator should ensure that measures to encourage real competition are hard wired into the targeted support sales process – see above.

**Question 14: Please outline whether you think targeted support is likely to be complementary to holistic advice (acting as a stepping stone for consumers) or likely to act as a substitute to holistic advice (cannibalising the advice market).**

It is difficult to say with any degree of precision at this stage. It is easy to imagine both scenarios developing. At the core of targeted support is the potential for firms to use mass market, electronic cold calling techniques to identify targets to sell, upsell, or cross sell products to. So, firms interested in the stepping stone model could use targeted support to mine for targets to move onto holistic advice at a later stage. Large vertically integrated firms with access to large pools of data could use targeted support to identify targets on a mass market basis. They would be in a position to sell high cost investment products to

significant numbers of targets with relatively modest-high assets. Individually these targets might not generate significant revenues. But, at the aggregate level, these targets could generate substantial ongoing revenues with redress liabilities significantly reduced. This must be an attractive commercial proposition. And large scale firms would have the deep pockets to absorb the initial costs of a supposedly 'free' targeted support service. This is likely to cannibalise at least part of the existing advice market.

**This marks the end of our submission**  
**August 2025**