By online form

Francesca Morphakis
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

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Dear Financial Conduct Authority

SPP RESPONSE TO FCA Consultation - CP22/25: Proposed regulatory framework for pensions dashboard service firms

We welcome the opportunity to respond to this consultation.

Executive Summary

SPP welcomes the opportunity to respond to this consultation and would be happy to discuss any of the points raised in more detail. This submission aligns with our response to the PDP Design Standards consultation running concurrently.

We do not propose to answer all of the questions in the consultation. However, we would like to offer our broad support with the proposals including that PDS firms should be subject to the Senior Management Arrangements regime but also draw your attention to some areas which will feel will put consumers at risk of harm.

These concerns include the mechanisms and effectiveness of the notification regime. We would wish for further information to provide comfort that all parties concerned, PDS firms and regulators will be enabled to take timely and comprehensive action when you receive reports that impact the pensions dashboards service community.

Another concern that has the potential for considerable impact and harm to dashboard users is focussed on the options available to a customer after they have used a post-view service and want to continue their digital journey. The proposed options only allow the customer to progress directly from the post-view service to MoneyHelper or Financial Advice. MoneyHelper is limited in the assistance it can provide, especially to the under 50s and many people, especially those brought into saving by autoenrollment, will be unable to afford Financial Advice. As explained further in our response below, we are concerned that this creates a hard break, where customers

The Society of Pension Professionals
124 City Road, London, EC1V 2NX T: 020 7353 1688
E: info@the-spp.co.uk www.the-spp.co.uk

become frustrated and abandon the journey, or potentially take their next steps into a space lacking regulatory oversight. Both of which may cause more harm than what the rule seeks to prevent.

The focus on the customer journey also links to the proposed 30 day data storage limit. When allowing the customer time to make comprehensive and effective use of the post-view service tools and considering the additional information that may be added in, when advice or guidance is being sought, 30 days seems like an unnecessarily limiting amount of time. As explained in more detail below, to allow the customer to move through their journey at a considered pace, having time to pause and reflect, without having to begin all over again, we propose a longer time limit of 90 days. This will help prevent customer frustration and abandoned journeys without compromising the aims of applying the limit in the first place.

We would like to emphasise our ongoing support for pensions dashboards and the overall proposals for the proposed regulatory oversight.

Detailed Response

3: High level standards, supervision and enforcement

Systems and Controls

Q1: Do you agree with the way in which we propose to apply the Senior Management Arrangements, Systems and Controls (SYSC) sourcebook to pensions dashboard service (PDS) firms?

Yes - no comment.

Fees

Q2: Do you agree with our proposed approach to fees for PDS firms?

Yes - no comment.

Supervision and reporting

Q3: Do you agree with our proposed application of existing Supervision manual (SUP) rules to PDS firms?

Yes - no comment.

Q4: Do you agree with our proposed approach to notification requirements?

We agree that clear notification requirements are vital to maintaining the integrity and function of the dashboard ecosystem and it is key that all those who provide the various services have a responsibility to ensure this. What is unclear from the consultation paper is how this information will be promptly shared in a timely manner so that they can act appropriately.

We are keen to understand how an issue reported to the FCA will filter through to or from other PDS firms or MaPS. As the receiver of the reported information, how will the FCA ensure that matters relevant to the wider industry are communicated promptly and effectively? There is a risk of gaps in the industry-wide response because of problems in sharing key information.

The FCA’s information-sharing policy and associated processes need to be transparent so that it is clearly understood how PDS firm reports will be managed, and the relevant information shared. A serious possible issue with the potential to impact the whole dashboard ecosystem is that of a clone dashboard being reported. In such an instance, the FCA, TPR and MaPS would all need to be aware of the matter, as well as warn other PDS firms, so it can be dealt with rapidly and comprehensively.

Q5: Do you agree with our proposed approach to regulatory reporting?

Yes - no comment.

Q6: Do you agree with our record keeping proposals?

Yes - no comment.

Approach to enforcement

Q7: Do you have any comments on our proposal to apply the same approach to enforcement investigations and actions to PDS firms as we do to other regulated firms, as set out in our Enforcement Guide (EG)?

We consider that requiring all PDS firms to meet the same high regulatory standards as all FCA-regulated firms is a positive. However, as we have identified elsewhere in our responses, the lack of constructive options for customers who wish to continue their journey past the post-view service results stage, will create a space where non-PDS firms render simply applying this approach to PDS-firms ineffective. So, although applying the same approach to enforcement will help to maintain quality within the PDS and post-view service environs, this is not practical for providing comfort and protection to those customers taking the next steps by manually providing their data elsewhere because there were no suitable options from within the post-view results space.

Q8: Do you have any comments on our proposal to follow the same procedures for decision making and imposing penalties in relation to PDS firms and individuals set out in our Decision Procedure and Penalties Manual (DEPP)?

As noted in other questions across this section, we are very supportive of having consistency, the same expectations and outcomes, across all FCA-regulated firms. This will help to maintain a high-quality service across the board and to minimise the risks to dashboard customers accessing their pension information.

4: Prudential requirements and wind-down procedures

Core capital resources requirement

Q9: Do you agree with our proposed prudential requirements for PDS firms?

No comment.

Q10: Do you have any suggestions for how we might develop the capital resources requirement going forward, in particular to calibrate it to PDS firms as the market develops?

No comment.

Q11: Do you think there should be a liquidity requirement for PDS firms going forward and, if so, how this might be calculated?

No comment.

Wind down procedures

Q12: Do you agree with our proposed approach to wind down procedures for PDS firms?

No comment.

5: Conduct standards

General conduct of business rules

Q13: Do you agree with our proposals on general conduct of business rules? 82 CP22/25 Annex 1 Financial Conduct Authority Proposed regulatory framework for pensions dashboard service firms

Section 5.7 contradicts the PDP Design standards, which suggest that different standards would apply to dashboards for financial advisers. If information is to be presented differently to advisers, the rationale for this should be clear. Otherwise, we agree with the FCA's proposals and information should be presented in the same manner. It will be important for the FCA and PDP to work together to ensure that regulatory requirements are aligned.

We would be keen to clarify how PDS firms can be confident in the legitimacy of the third party using delegated access. Is this to be dealt with by the ID&V mechanism in the CDA? We are keen to understand how this will be managed to ensure that only correctly regulated providers can obtain delegated access. We would welcome further details about how the legitimacy of the delegated financial adviser will be verified as although this issue is raised within the signposted DWP consultation, apart from being required to allow access it is not addressed further within the Pensions Dashboard Regulations (2022). Without adequate verification checks, this is a potentially severe vulnerability to the customer that would be difficult for the PDS to identify or prevent.

Disclosures, signposts and warnings

Q14: Do you agree with our proposals on disclosures, signposts and warnings?

We agree with your proposals on disclosure, signposts and warnings. It is imperative that all disclosures, signposts and warnings are clear, provided at an appropriate time and can easily be understood by consumers.

Q15: We want disclosures, signposts and warnings to be displayed at the most important moment for consumers. Do you have any evidence as to when PDS firms should communicate these disclosures, signposts and warnings?

We do not have specific evidence as to when PDS firms should communicate disclosures, signposts and warnings. However, we consider that it is of particular importance that they are provided at an appropriate point for the disclosure, signpost or warning (which should consider other warnings, pop-ups and other information which may be provided to dashboard users so that the disclosure/ signpost/ warnings retains appropriate prominence).

Q16: Do you agree with our approach to outsourcing?

We are largely comfortable with the approach outlined.

Q17: Do you agree with our proposals relating to where third parties make dashboard services available?

We would like clarity on the FCA's proposals in this area. If a firm purchases a third-party solution, it may require the third party to make changes in the future. It feels overly restrictive to require the PDS firm to make the change rather than to outsource the change if they wish to the third party with the PDS firm being responsible for oversight of the change.

Export of customers' data

Q18: Do you agree with our proposal that data should only be exported to either the customer, the PDS firm, or a firm in the same group as the PDS firm with permission to give investment advice?

We do not support this proposal. This proposal seems to prevent a consumer from being signposted to anything other than MoneyHelper guidance or Financial Advice. Consumers that are too young for a PensionWise appointment and who want to understand their suitable next steps, but cannot afford financial advice will be left with little idea of where to go to take action.

It is highly likely that those entities who wish to avoid oversight by the FCA, will encourage consumers to download their data from the MaPS or another dashboard and bring this to their service, thereby circumventing the PDCOB rules and any regulatory restrictions or oversight. It will make it impossible for the FCA to accurately oversee how consumer data is being used and the decisions they are making post visiting the Dashboard.

The alternative is to allow the PDS firm to port the member into a decision making journey after they have received comprehensive 'post view' services. The types of journeys the consumer chooses after the post-view service could be reported to the FCA. This would allow the member to take action in a more seamless manner and the FCA to have greater oversight of what onward journeys users are choosing. Where there are inappropriate trends, this would allow the FCA to identify these and take action. It would also encourage customers moving forward with their digital journey to apply more scrutiny to those who are operating outside of the framework and asking for their data in this way.

Finally, it is worth noting that it is not only product providers in the market who provide educational tools to consumers. Large employers often provide free information and tools to help their employees to understand their pension offering and what they might get at retirement. It is likely that the cost of becoming a PDS firm would be prohibitive to these employers. And it reads that those who would become a PDS firm would be prevented from signposting their employees to anywhere other than MoneyHelper or Financial Advice for further assistance (and not to their payroll to increase their contributions or nominate a beneficiary for example).

Q19: Do you agree that the requirements we propose to place around how data is exported and processed ensure an appropriate degree of consumer protection?

As per Q18, we have concerns about the unintended consequence of these proposals for consumers and the potential harm and increase in scam activity.

A further concern is the proposed 30-day data storage limit for customers using post-view services. These services will include various tools and calculators that may also require customers to enter additional information manually. It is hoped that the results of these, based on comprehensive information, will require customers to take time and consider their next steps or to seek guidance or advice. It may be that they have to contact a provider for additional information. A customer may take more than one of these actions and then pause and consider what to do next. While we appreciate the 30-day clock restarts each time the customer logs in within the 30 days, it is a very short window for all these to occur. If a customer exceeds this time and then re-enters the post-view service, it will be frustrating to start the journey again. This may result in customers becoming unsatisfied with the pensions dashboard system and abandoned journeys. We understand the reasoning behind a time limit for data storage but a longer limit of 90 days would be more appropriate. This aligns with the open banking permissions and provides a balance between allowing the customer to move comfortably through their journey and ensuring that the data remains up-to-date and relevant.

Post view services

Q20: Do you agree that our proposals on post view services achieve an appropriate balance between allowing scope for innovation and protecting consumers?

We do not agree. See response to Q18.

Marketing

Q21: Do you agree with our proposals on marketing?

These proposals in this area seem overly tight. It appears that PDS firms would be unable to signpost their customers anywhere other than MaPS or Financial Advice, which, as we have identified elsewhere in our responses, raises concerns about the ongoing customer journey and the outcomes for customers for whom these options may not be desirable or suitable. It also appears that any action is perceived to be potential consumer harm, and this seems inconsistent with other initiatives within the pensions environment.

Q22: Do you agree with our proposals on cookies and similar tracking technologies?

No comment.

Scam Prevention

Q23: Do you agree with our proposals to protect dashboard users from scams?

We agree with many of your proposals to protect dashboard users from scams, including warnings and signposting, as a minimum standard. However, as explained in our responses to other questions in this consultation, we fear that these may be undermined by some of the problems we have identified. Many customers using the pensions dashboard may be reviewing or considering their pensions information and options for the first time and be vulnerable to scam activity. By restricting the possibilities of their ongoing journey to either MoneyHelper, which is limited to high-level help or signposting, particularly for the under 50s, or Financial Advice, the cost of which may be out of reach for many. Customers will either become frustrated and finish their journey there or have to take responsibility for exporting their own data and deciding where to take their next steps without any support. This risks those customers continuing their journey without any regulatory oversight and has little in the way of being able to ensure these journeys are appropriate.

Prevalent scam techniques evolve and change alongside legitimate innovation and it is concerning that if the 'workaround' of exporting their data to themselves and inputting manually becomes seen as the standard way to progress a digital journey, it could become much harder to differentiate between legitimate and scam sites. This will be exacerbated by the lack of regulatory oversight and the difficulty of measuring outcomes that accompanies this. All of this risks reputational damage and trust issues with pension dashboards overall, the PDS firm used by the customer and the regulators.

6: Senior Managers & Certification Regime

When will the SM&CR rules apply?

Q24: Do you agree with our proposal to apply the Senior Managers and Certification Regime (SM&CR) to PDS firms?

It is important that PDS firms are regulated to the same high standards as other FCA-regulated firms and activities, depending on the classification. If the SM&CR were not applied to PDS firms, there is a risk of a 2-tier industry emerging. However, applying the SM&CR and increasing the accountability of senior business leaders mitigates the risk of nefarious behaviour. Aligning this with other firms of the same classification will deliver consistency and support customer trust in pensions dashboards and pensions more generally.

Q25: Do you agree with our proposals to treat PDS only firms as Limited Scope firms?

We agree that this is a reasonable proposal for PDS-only firms, as any additional activities will have to be scrutinised for potential additionally required permissions. If those permissions are required the appropriate level of FCA oversight can be applied, or for PDS firms, the limitations of the service they are allowed to provide be made clear.

Q26: Are there any provisions within the Senior Managers and Certification Regime (SM&CR), including the Fit and Proper test for Employees and Senior Personnel (FIT) and the Code of Conduct (COCON), that apply to most firms but should not apply to PDS firms?

No - we cannot see any reason that the provisions that apply to most firms should not apply to PDS firms. This will help ensure a consistency of regulation and oversight across the regulated community.

7: Dispute resolution

Compulsory jurisdiction of the Financial Ombudsman and complaints handling rules (DISP)

Q27: Do you agree with our proposals to apply our complaint handling rules and guidance in the Dispute Resolution: Complaints Sourcebook (DISP), including the compulsory jurisdiction of the Financial Ombudsman Service, to PDS firms? 83 CP22/25 Annex 1 Financial Conduct Authority Proposed regulatory framework for pensions dashboard service firms?

We agree that the same approach should be taken to ensure consistency across FCA-regulated firms and PDS firms specifically. This will help to ensure a level playing field for firms and dependable protection for customers.

We do, however, note that the statutory award limit applies to the Financial Ombudsman Service and that this may be exceeded if a member becomes the victim of a scam/ makes a poor decision as a result of reliance information on pension dashboards (for example, where insufficient warnings are given) – we consider that this is particularly so given that information in relation to defined benefit pension entitlements will be included on pensions dashboards. Where consumers lose money which cannot be recovered through the Financial Ombudsman Service, they will often pursue claims against occupational pension providers (through the Pensions Ombudsman).

All in all, given the risk to occupational pension providers and the limited control they will have over the actions of PDS firms, we consider that this is another important reason to minimise scam and harm risks.

Q28: Do you agree with the Financial Ombudsman Service's proposals to exclude activities relating to pensions dashboard services from the voluntary jurisdiction?

No comment.

Q29: Do you agree with our complaints reporting proposals for PDS firms?

We agree that the same approach should be taken to ensure consistency across FCA regulated firms and PDS firms specifically. This will help to ensure a level playing field for firms and dependable protection for customers.

Q30: Do you agree with our approach to redress?

As per Q29.

How is the Financial Ombudsman funded?

Q31: Do you agree with our approach to the Financial Ombudsman Service's fees and levy?

As per Q29 and 30.

8: Authorisation

International firms

Q32: Do you agree with our proposed approach to authorising international PDS firms?

We agree with your proposed approach to the authorisation of international PDS firms. It is essential that these firms operate to the same high standards as UK-based firms and bring the same understanding of the UK market and customer needs. There should be no room for any potential undercutting of quality or increased risk to pensions dashboard customers.

Annex 2: Cost benefit analysis

Q33: Do you think the combination of our proposals in this paper provide adequate scope for an innovative market to emerge, within the parameters set by Parliament?

We do not agree that the proposals in this paper provide adequate scope for an innovative market to emerge. While we are pleased that focus has been given to protecting dashboard customers, as outlined earlier in this response, we do not feel that the restrictions placed provide the FCA with sufficient oversight of onward actions consumers may take. The overly tight restrictions pose more risk to consumers as it breaks their journey into multiple parts, and the final outcome has no supervision. Oversight of this will be essential to identifying trends that are causing consumer harm. This is of particular concern when we consider the potential breadth of financial sophistication or vulnerability dashboard customers may possess as some review and consider next steps for their pensions for the first time after accessing the pensions dashboard.

Q34: Do you have any comments on our cost benefit analysis in Annex 2?

No comment.

Yours faithfully,

Jasmine Smiley,
Chair, Financial Services Regulation Committee, SPP

Fred Emden
Chief Executive, SPP

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