

## The Society of Pension Professionals (SPP) response to the FCA Consultation Paper CP24/27: Advice Guidance Boundary Review – proposed targeted support reforms for pensions

### 1. Introduction

- 1.1. The SPP appreciates that this consultation is one of several workstreams in the area of retirement planning and that further work is being done in relation to the advice/guidance boundary, as well as a number of other related developments.
- 1.2. Although we provide more detail on these in question 44 below, we would like to emphasise the importance of taking into account these other workstreams as part of developing the proposals in this consultation, in particular that the proposals and forthcoming legislation relating to DC decumulation in occupational pension schemes.
- 1.3. Members do not tend to differentiate between different types of arrangement (whether they are within an FCA regulated contract-based arrangement or an occupational pension scheme) and there is a risk of exacerbating differences, and, potentially, confusion, between the two regimes if targeted support products are developed within the FCA regulated sector without sufficient thought to what a member journey will look like for an individual who has pension rights within an occupational pension scheme (or one who has rights within both).
- 1.4. We hope that the FCA finds the below response of use and would be happy to discuss any of these issues further.

### 2. Executive Summary

- 2.1. **There needs to be a threshold in place to determine when targeted support could be delivered.** The criteria and terminology used needs to be clear and have a consistent interpretation across those firms who may wish to offer such a targeted support service.
- 2.2. **The paper does not give any indication as to whether, as part of a targeted support service, a firm is expected to take into account other pension arrangements from other providers when judging if a better outcome could be achieved or whether the customer would be expected to go through multiple targeted support processes for each product.** Clarity here is very much needed.
- 2.3. **In the situation where a customer has received a holistic advice service previously and is paying for an ongoing advice service, they should usually be referred back to their financial adviser rather than utilising targeted support.** However, there may be scenarios where a customer may have previously received advice on a one off basis and may now want to undertake a completely separate transaction. If there is sufficient separation between the two events, we see no reason why a customer should not be offered a targeted support service if the agreed threshold has been met.
- 2.4. **We agree with the FCA's proposed approach to ready-made solutions.** When designing or selecting ready-made solutions, this should be done fully recognising the requirements of Consumer Duty, especially with regards to target market and value for money.
- 2.5. **In relation to data, there is clearly a need to have access to basic data about the consumer to verify they match the characteristics of a segment to enable appropriate allocation.** However, beyond that, the SPP believes that it is more important that the consumer understands what a targeted support service is, how it helps their decision making process and how a firm verifies that a better outcome would be achieved, rather than the level of data being collected.

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- 2.6. **We do not believe that this initiative can succeed without firms having access to members' wider pensions savings, as a minimum.** Indeed, we believe it would be a retrograde step for providers to deal exclusively with the pension benefits that relate solely to them.
- 2.7. **In relation to fees and charges, ultimately it will be up to firms to decide whether they are able to offer a targeted support service to customers free of charge or to charge an appropriate fee.** Much would depend on the final regulatory framework that is introduced, but large product providers are likely to seek to recover the costs of providing a targeted support service through some form of cross subsidisation.
- 2.8. **Decisions concerning life-changing sums of money can involve uncertain outcomes and unintended consequences, even where appropriate support has been provided.** Consumers may also experience regret risk in relation to their decisions. Providers will need clarity concerning how responsibility for complex decisions will be allocated between providers and consumers if they decide to offer targeted support.
- 2.9. **Targeted support could reduce harm to consumers if there is sufficiently widespread take-up among FCA-regulated firms and the framework accommodates trustees of occupational pension schemes providing equivalent support.** This will depend on whether the thresholds and expectations of the framework are proportionate and there is sufficient regulatory certainty and alignment concerning its application to trustees of occupational pension schemes.

### **3. Consultation response**

- 3.1. **Question 1: In your view, do any of the proposals outlined in this CP adversely affect protected groups or vulnerable consumers and why?**
- 3.2. It is inevitable that some pension savers will be able to understand guidance and targeted support far better than others. Literacy and numeracy standards vary enormously across the population and financial literacy remains woefully inadequate within our education system. However, since it is possible for savers to acquire an adequate level of financial literacy, through independent means such as friends and family, or via provider guidance, we do not consider this to be a *persistent* vulnerability that providers or regulations should seek to address.
- 3.3. As this is not an initiative targeted at people who have already retired, we do not believe that older demographics now in their 50s and 60s are, as a group, less equipped to engage online and as time passes, the risk of age differentiated outcomes will diminish.
- 3.4. As far as protected groups are concerned, we do not envisage that any would be adversely affected although, clearly, where the level of English language skills is lower, some may be less able to engage with the initiative as effectively as others. For the same reasons as set out above (other means, such as friends and family) and the widespread availability of free online translation services, we do not consider this to a matter for regulations or providers to address. It would be disproportionate to expect providers (through charges levied on all members) to fund technology which is widely available elsewhere.
- 3.5. In short we cannot see that any group would be adversely affected, even though some may derive less benefit than others.
- 3.6. **Question 2: Do you think we should differentiate between different types of consumers in relation to targeted support in the context of SIPPs? If so, how?**
- 3.7. SIPPs differ significantly in nature across products and providers with the majority, if not all, workplace pensions being personal pensions with access to a wider range of insured funds, but without options for true self investment. As workplace products are derived from retail products, the same will apply to retail policyholders of these products. We believe that this type of arrangement should be viewed through the same lens as any other personal pension, but that retail SIPPs, whose policyholders are known or believed to be using the full flexibility available, and who are considered to be in control of their retirement planning, should be exempt (although an opt-in mechanism may be worthy of consideration).

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- 3.8. **Question 3: Do you agree that there needs to be a threshold in place to determine when targeted support could be delivered? If so, do you think this should relate to delivering better outcomes or avoiding poor outcomes? Please explain your reasoning or alternative approach.**
- 3.9. Yes. We agree that there needs to be some form of threshold although the criteria and terminology used needs to be clear and have a consistent interpretation across those firms who may wish to offer such a targeted support service.
- 3.10. The proposed threshold of “a firm should have reasonable grounds for believing that the delivery of targeted support suggestions would deliver a better outcome for their customers than if targeted support was not provided” is very subjective and an area which would benefit from further guidance from the FCA as it would seem to prompt more questions.
- 3.11. The FCA Consumer Duty requires that firms act to provide “good” outcomes, but the proposed threshold refers to “better” outcomes. Further clarification is needed to confirm what is really intended regarding these terms. Is avoiding a poor outcome for a customer the same as providing a good outcome or a better outcome? Clarity here is essential.
- 3.12. Paragraph 2.15 of the consultation paper states that “taking an unduly conservative approach to the advice guidance boundary may not deliver good customer outcomes. We would expect firms not to be hesitant to provide such support simply to avoid coming closer to the boundary, but we recognise even then a gap remains. We are proposing targeted support to fill this.” Does this mean that if a firm does not offer a targeted support offering, then the FCA might judge it to be falling short of Consumer Duty requirements? It is still not clear what, in practical terms, the difference is between avoiding a poor outcome and achieving a good or better outcome.
- 3.13. To further illustrate the challenge that firms will face, paragraph 4.9 of the consultation paper states “...we would expect firms to consider that targeted support is designed to enable the consumer to make a fully informed decision.” Given that firms that offer a non-advised service where factual information is provided to customers to put them in a position where they can make a fully informed decision, this seems to duplicate the existing Consumer Duty requirements – i.e. it could be difficult for firms to identify what a better outcome would be.
- 3.14. **Recommendation 1: Ensure greater clarity around the terms “good” and “better” outcomes to provide greater certainty for all involved parties.**
- 3.15. **Question 4: How would you make a judgement of when the better outcome threshold was reached? What steps could the FCA take to support this judgement?**
- 3.16. Better outcomes is a challenging criteria to assess against, given that outcomes are in the most part dependent on various future circumstances (investment performance, how long people live, inflation etc.).
- 3.17. This could be done on a principles basis rather than a quantitative one for some categories.
- 3.18. We would suggest that this is framed against two categories – mitigating risk of poor outcomes (effectively safeguarding which is in many ways the priority) and improving/optimising outcomes.
- 3.19. Examples of the former would be a basic rate taxpayer taking a large lump sum and incurring high tax charges (without good reason) or someone taking drawdown in a non-sustainable way and running out of money. It could also include exposure to high-risk funds in the approach to retirement. We note these are listed under 4.31 in the consultation document.
- 3.20. The latter could include decisions like not optimising employer contributions/choosing funds with lower growth rates.
- 3.21. For the former it is easier to determine better outcomes (the bad thing doesn’t happen) and debatably could be standardised – i.e. addressed any time there is a risk irrespective of quantity. For the latter there might need to be some degree of materiality – i.e. contribution levels or investment performance.

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- 3.22. The issue is when something that should be about improving outcomes becomes a poor outcomes matter. An example of this is people in annuity targeting investment strategies seeing significant fund value decreases during the Gilt crisis of 2023.
- 3.23. **Question 5: Considering the more diverse consumer journeys in retail investments, how could we set the threshold for targeted support being provided in retail investments?**
- 3.24. This goes back to the answer to question 4. Investment choice can be complicated as (amongst other things) a) the future performance and b) wider circumstances (such as attitude to risk, financial awareness and wider assets) are unknown. Advice would of course take these things into account.
- 3.25. That said there is no reason why anyone could not receive information that they could choose to discard – i.e. information on what investments are held, what they're designed to do and what the alternatives are (a bit like retirement pathways). This could have prevented the annuity targeting strategy issues noted above.
- 3.26. **Question 6: Do you agree with our proposal not to prescribe specific scenarios where targeted support could be delivered?**
- 3.27. Yes, and this is reflected in the answers above. There are some areas where some communication should be required (e.g. investment risk and retirement options) but note that there will be prescribed communications that cover these elements at a base level, e.g. retirement packs and risk warnings in investment guides). Consumer segments should be considered carefully to ensure no-one falls between the cracks – e.g. someone may have a need that does not neatly fit into the obvious segment (i.e. someone could retire young due to ill-health or start contributing later in life).
- 3.28. **Question 7: Do you agree with our proposal on ready-made solutions including that firms could suggest a new product? Do you agree that it should generally only capture support that constitutes a personal recommendation in the current framework? Do you have views on whether the targeted support regime should facilitate suggestions not involving a personal recommendation, and if so, how?**
- 3.29. We welcome the desire to address this issue as there is clear a gap between what is desired and what is practically available to some cohorts. Going back to the responses above there are two types of advice – a) think carefully about doing this, it's unlikely to be sensible and b) do this – it fits your circumstances well. The first is 'guidance-plus' and wouldn't need a product/class as a personal recommendation. The second is 'advice-lite' and would result in a recommendation. In order to do this, there does need to be a product, most likely an investment strategy or a retirement (i.e. drawdown or annuity) product. It feels that with the right implementation this is possible and, in many ways, just builds on (as is identified) the retirement pathways concept.
- 3.30. However, if the pre-designed solution is "people like you should consider buying an annuity", and the consumer then buys an annuity, if that turns out to have been the wrong suggestion (regardless of where they got the annuity from) this is likely to have significant implications for the consumer – and more than likely whoever advised such a course of action. This is a complex area and the SPP advises great care is taken.
- 3.31. **Question 8: Do you agree with the three steps of pre-defining scenarios, consumer segments, and ready-made solutions? In particular we welcome views on the need to design these prior to the delivery of targeted support.**
- 3.32. Yes, it feels that this is the only way to make this work noting how complicated it could be. This approach is also relatively well embedded in the industry in terms of retirement pathways and segmenting communications relative to stage in the retirement journey (broadly age) and affluence. The elements should be built in advance and align with what is in place/being developed elsewhere (i.e. this could be overlaid onto retirement pathways).
- 3.33. However, the provider may not offer a product that is being recommended – an annuity is a good example. Answers therefore should not be restricted to a providers product range, otherwise there is a risk of mis-selling.

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- 3.34. **Question 9: Do you agree with our proposed approach to the verification process including the application of the better outcomes threshold?**
- 3.35. Broadly yes, the threshold has to be considered and met first, but again this is a tricky process – we have a very complicated legacy pensions framework where principles compete – (is a with profits guarantee more valuable than a potentially higher investment return). It will not always be clear if the threshold would be met, with factors based in the present (attitude to risk) and future (investment returns). Therefore, there would either need to be carve outs (which are in some ways undesirable as it removes the support for those who might value it most) or some form of indemnification for providers. If it is not clear if the threshold would be met (i.e. it's a maybe) then, rather than withhold the support, perhaps it could shift to 'guidance-plus'.
- 3.36. **Question 10: Do you have any comments on the terminology, including 'targeted support' and 'ready-made solutions', we are using in this CP and its potential use in Handbook rules for firms?**
- 3.37. We do not have any specific comments regarding the terminology used, but we would suggest that any terminology that is agreed be used consistently across the industry (including by organisations such as MaPS and FOS) to avoid confusion and to minimise the risk of firms seeking to portray their service as something other than targeted support.
- 3.38. **Recommendation 2: Consistency of terminology is essential to avoid confusion and to minimise the risk of consumers being wilfully misled.**
- 3.39. **Question 11: Does our proposed framework enable firms to provide targeted support where there is greatest customer need? Are there any examples where you would feel unable to provide targeted support based on the framework proposed? Would guidance around scenarios where targeted support could be delivered be helpful? Question 12: Are there any other scenarios in which you envisage targeted supporting being provided in retail investments?**
- 3.40. The examples of scenarios contained within the consultation paper appear to cover the most common areas where a customer could benefit from a targeted support service.
- 3.41. As part of the scenarios, and to assist firms further, we would urge the FCA to provide guidance on the approach to be taken where a customer has multiple pots or other sources of income in retirement.
- 3.42. The paper does not give any indication as to whether, as part of a targeted support service, a firm is expected to take into account of other pension arrangements from other providers when judging if a better outcome could be achieved, or whether the customer would be expected to go through multiple targeted support processes for each product. Would a provider of a targeted support services be expected to ask the customer for details before judging whether a better outcome could be achieved?
- 3.43. **Question 13: Do you agree with our proposals in relation to advised consumers? Are there different considerations where a consumer is receiving ongoing advice or where a consumer has received initial or one-off advice about their pension?**
- 3.44. The SPP does not think that Targeted Support should be restricted to non-advised customers only. This is because of likely difficulties in establishing who is an advised customer, especially in the workplace.
- 3.45. Providers will be unaware if advice is one-off or continuous. Instead it should be made clear what the limitations of Targeted Support are, and that if a consumer has received advice that will have taken into account their personal circumstances.
- 3.46. We agree that it might prompt the saver to contact their adviser for more advice. The challenge is more of an issue with proactive Targeted Support e.g. a provider notices that a consumer is withdrawing a lot, they do not know if they have a limited life expectancy or another income or some other issue, but their adviser likely would.
- 3.47. In the situation where a customer has received a holistic advice service previously and is paying for an ongoing advice service, then yes, we generally agree that they should be referred back to their financial adviser and it would be inappropriate to offer them targeted support.

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- 3.48. However, there may be scenarios where a customer may have previously received advice on a one-off basis (either regarding their pension or a different matter) and may now want to undertake a completely separate transaction. If there is sufficient separation between the two events, we see no reason why a customer should not be offered a targeted support service if the agreed threshold has been met.
- 3.49. We suspect that product providers offering a targeted support service would build in an early checkpoint to ask the customer whether they have a current relationship with a financial adviser and if so, refer them back to them.
- 3.50. **Recommendation 3: Where a customer has received a holistic advice service previously and is paying for an ongoing advice service, they should usually be referred back to their financial adviser rather than utilising targeted support.**
- 3.51. **Question 14: What are your views on our proposals for the design principles? In particular, do you have any comments on achieving appropriate oversight and competence?**
- 3.52. We do not have any specific views at present and, at this stage, think it reasonable to be guided by the Consumer Duty requirements.
- 3.53. **Question 15: Do you agree with this approach to ready-made solutions, including the restriction placed on the annuity journey and the annual review of the process? Are there any other suggestions you think would not be appropriate due to targeted support being based on limited information? Please explain your reasoning.**
- 3.54. We agree with the proposed approach to ready-made solutions. When designing or selecting ready-made solutions, this should be done fully recognising the requirements of Consumer Duty, especially with regards to target market and value for money.
- 3.55. On the proposal to exclude the purchase of a specific annuity is from a targeted support service (due the irreversible nature of the product) we can understand the sentiment behind this approach but it seems inconsistent with current approaches in the industry. Currently a customer can purchase a specific annuity via a non-advised sales process so a customer can currently make an irreversible decision based on less support than they would be able to access via a targeted support process.
- 3.56. **Question 16: Do you agree with our proposal for setting the general parameters around the definition of consumer segments? If so, what should this involve and how could it be framed effectively in light of the existing 'sufficiently granular' concept? Please explain your reasoning.**
- 3.57. The SPP believes that Consumer Duty requirements would most likely drive a firm's approach to defining consumer segments. However, as highlighted in our response to question four (above) paragraph 5.23 of the consultation paper states that consumer segments should not be so broad that the suggestions are too generic and need to be more detailed than current product design processes.
- 3.58. This suggests that firms would need to have a different approach and therefore further guidance would be needed around the expectations of this.
- 3.59. **Question 17: Do you agree with our preference to take an outcomes based approach to verification, and how do you think this could work in practice? Would it be helpful if this approach was supported by rules or guidance on the data to use or not use? Please explain your views.**
- 3.60. As we stated in our response to question 9 above, we broadly agree. Assuming a firm is clear on what a better outcome would be, an outcomes based approach to verification would seem appropriate and could be easily monitored provided the scenarios are not too niche.
- 3.61. As we have highlighted in our response to previous questions, there is a need for further guidance to help firms understand the level and type of customer data required to assist in the verification process. We understand that information requirements will vary depending on the scenario and consumer segment, but perhaps case studies could be produced for common scenarios.

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- 3.62. **Question 18: If you do not agree, please provide your views on alternative approaches including whether to prescribe in rules data firms would need to use.**
- 3.63. Please see above answer to question 17, we broadly agree and therefore have no comment to make here.
- 3.64. **Question 19: What level of data do you think would be perceived by a consumer as suggesting the provision of holistic advice? Please describe these data points and the linked scenarios**
- 3.65. It is worth noting that the greater the amount of data that is requested, the more likely it will be that the customer will think they are receiving holistic advice rather than targeted support e.g. health data, attitude to risk and so on.
- 3.66. Many SPP members believe it is more important that the consumer understands what a targeted support service is, how it helps their decision making process and how a firm verifies that a better outcome would be achieved, rather than the level of data being collected.
- 3.67. **Recommendation 4: The FCA should be less concerned about the level of data being collected and more concerned about the consumer understanding what a targeted support service is, how it helps their decision making process and how a firm verifies that a better outcome would be achieved.**
- 3.68. **Question 20: Are there any specific considerations for restricting the use of data for targeted support in retail investments?**
- 3.69. We are not aware of any real differences between retail consumers and those in the workplace so see no need for different data.
- 3.70. **Question 21: How might firms seek to use pensions dashboard data for targeted support? In particular, we would welcome views on how firms may seek to use dashboard data as part of a consolidation journey in targeted support.**
- 3.71. We do not believe that this initiative can succeed without firms having access to information about members' wider pensions savings, as a minimum. Indeed, we believe it would be a retrograde step for providers to deal exclusively with the pension benefits 'on their watch'.
- 3.72. Using one of the illustrative situations you have described in this Consultation Paper (*A pension provider identifies that a consumer, aged 60, is potentially at risk of running out of money in retirement as they have determined they are drawing down unsustainably a rate of 10% for 3 consecutive months.*) Any intervention or guidance from this provider which suggests an unsustainable level of withdrawal and recommends a lower rate (as in your example) ignores other pension savings, the level of which may make the 10% withdrawal rate entirely reasonable. Therefore, targeted support without knowledge of the totality (or close to totality) of a member's pension is likely to lead to inappropriate recommendations which in turn will likely lead to a weakening of consumer confidence and could, feasibly, cause actual financial harm.
- 3.73. We do not believe it will be practicable for members to physically provide/input each provider with whom they engage with relevant financial information so that providers will have a more holistic view of pension savings. Not only would this be a laborious consumer experience but it would also be prone to input error, which in turn could prejudice the outcome.
- 3.74. We therefore consider it an absolute imperative that members have a simple process to allow all providers to access Dashboard data. However, even then this will likely give rise to a number of other significant issues, such as:
- i) Which provider should take the lead?
  - ii) If one provider does not act as lead, and a member engages each provider in turn, what safeguards would there be to mitigate the risk of different providers recommending different courses of action (recognising that this will be common given different providers are likely to take varying amounts of data into consideration)?
  - iii) If a lead provider is selected, the liability for loss is would be concentrated exclusively with that provider. We cannot foresee any provider accepting that risk, nor the that the insurance market would

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underwrite such risks (this will be felt more acutely by occupational schemes which are not a commercial provider).

- iv) Dashboard data will often be unreliable and no more than indicative e.g. if someone has left service since the last renewal date the illustration will still assume they are paying in and if someone has made a partial withdrawal the full amount will still be shown (it only disappears if the whole benefit is crystallised.)

3.75. Although the Dashboard timetable, ending in October 2026, would be well aligned to this initiative's timetable, for the reasons articulated above, it seems more logical for targeted support to be provided not by each provider, but by commercial Qualifying Pension Dashboard Services (QPDS). This is because:

- We would expect fees for this type of service to be minimal, therefore not a barrier to uptake.
- We would expect such providers to invest heavily in the type of technology that will help aggregate assets on their platforms. The quality of targeted support tools could become a key commercial battleground. All things being equal, one would expect a more permanent relationship between such providers and their customers.
- The commercial attractions of asset aggregation should translate to higher, long-term levels of investment in the necessary technology.
- The commercial attractions of asset aggregation should offset the financial risks of complaints and/or Class Actions.
- We would expect that many of the largest providers will be at an advanced stage of developing a QPDS which will have transactional capabilities. Product recommendations can be simplified where, for example, a provider offers annuity products, including impaired life annuities, the availability of which would be expected to be a part of the targeted support journey. This, of course, should be subject to appropriately revised rules around financial promotions.

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

3.77. We believe that this would be the right approach. Commercial QPDS platforms are more likely to develop – and promote – dashboard solutions for a wider audience, including those with Protected Characteristics.

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

3.79. We have covered this in our answer to question 20. We do not believe that providers can achieve better member outcomes by providing targeted support based solely on the pension benefits on their watch. Our response to question 39 also addresses this question.

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

3.81. We believe that conduct standards would be equally relevant.

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

3.83. Any consumer segment for retail investments would need to consider the investment timescale and attitude to investment risk.

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

3.85. Yes. The SPP agrees that these three touchpoints appear to be the main times at which firms should disclose information to consumers.

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- 3.86. **Question 27: Do you agree with the key aspects of the minimum prescribed level of information required at each touchpoint? Is there any information that all firms should disclose in addition to the key pieces of information in 6.24 and 6.25, or any other stage? Should all of this information be prominently shown and not layered?**
- 3.87. The SPP broadly agrees with the key aspects of the minimum prescribed level of information required.
- 3.88. It would make sense for key aspects to be prominently featured - but not all the disclosure requirements - these could be layered to ensure it does not become overwhelming or disengaging.
- 3.89. Where the outcome is a new product, normal new business journeys should provide full disclosure of costs and charges in detail, as opposed to showing this in the Targeted Support communication
- 3.90. In relation to touchpoint 3, there should be an additional point made as part of the statement "*It is the customers decision to take action*" or similar. This is to ensure it is clear that they are responsible for their action.
- 3.91. There should be consideration through testing for vulnerable customers, to ensure disclosure works for them as this could be a particular challenge in a fully digital journey.
- 3.92. It might also be useful for an industry agreed template to be produced, which explains Targeted Support, its aims and limitations.
- 3.93. **Question 28: Do you consider the conflicts of interests (SYSC 3 and 10) requirements sufficient to manage the risks from firms providing ready-made solutions which involve a specific product from their own product range?**
- 3.94. On the basis that the existing regulatory requirements would apply to a firm if it were providing a holistic advice service, the high level requirements in SYSC 3 & 10 should be sufficient in respect of a targeted support service.
- 3.95. **Question 29: Do you agree that the sourcebooks described above do not require any substantive changes to ensure the effective delivery of targeted support with appropriate consumer protection?**
- 3.96. The following points need to be considered when the regulatory framework is being drafted:
- 3.97. Re SM&CR, guidance should be provided as to the person(s) responsible for better outcomes being achieved through a targeted support service having the need to be a certified individual(s);
- 3.98. Currently a person who is deemed an "overseer" of a process is subject to qualification requirements. We would suggest a similar approach needs to be followed in respect of a targeted support service – i.e. a qualification requirement should apply to the individual(s) responsible for the process operating as intended.
- 3.99. **Question 30: Do you agree with our proposals on the existing COBS 19 requirements? Are there any other aspects of our existing pensions regime we should be considering?**
- 3.100. The SPP agrees with your proposals on the existing COBS 19 requirements but it might make sense for pathways to be brought into Targeted Support where offered at retirement in order to avoid a disruptive journey. This would allow other options to be presented to customers. For instance, a solution based on a future annuity.
- 3.101. **Question 31: How do you consider targeted support and the annuity prompt rules could operate together to create a positive consumer experience?**
- 3.102. The Targeted Support journey is likely to include discussion about annuities and based on these proposals, the saver would follow the existing annuity sales journey compliant with COBS 19.

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- 3.103. **Question 32: Do you agree with our proposed approach to fees and charges, including on the issue of cross-subsidisation? If not, please explain why and if you have alternative suggestions?**
- 3.104. Ultimately it will be up to firms to decide whether they are able to offer a targeted support service to customers free of charge or charge an appropriate fee.
- 3.105. It is likely that an online solution would be the delivery method of choice for many providers for much of the service, once initial build costs have been met, ongoing costs of providing the service will be minimal which could mean the service could be free of charge/minimal cost at point of delivery.
- 3.106. Targeted support delivered via a telephone call centre to customers is likely to be much more resource intensive and costly. In this situation, some element of cross subsidisation would seem appropriate as customers are unlikely to use the service if a separate fee has to be levied. This raises the question of whether the cross subsidisation should apply at product level or service level – i.e. to providers offering a targeted support service subsidise the cost of the service across the product for everyone, or just subsidise the cost of service from the products of customers who actually use the service?
- 3.107. Conflicts of interests (including remuneration structures of call handlers) would need to be carefully managed where any model that resembles a traditional commission model is permitted.
- 3.108. **Question 33: For firms, based on our proposals, how do you intend to charge for your targeted support services, either directly or indirectly, and how do you anticipate your approach would affect existing fees and charges? Please provide as much detail as you can, including details about specific fees across your business?**
- 3.109. We haven't got round to discussing this level of detail, and much would depend on the final regulatory framework that is introduced. However, large product providers are likely to seek to recover the costs of providing a targeted support service through some form of cross subsidisation. Whether this would apply across the whole product book, or just be applied to people that use the service which results in a product sale remains to be decided.
- 3.110. For existing product holders, it is unlikely that firms would be able to amend existing product charges to cover the costs of providing a targeted support service as this would seem contrary to Consumer Duty. Therefore any cross subsidy of charges would need to apply to new plans going forward, should this approach be deemed appropriate.
- 3.111. As mentioned above, the introduction of any cross subsidy needs to be carefully considered from a consumer duty perspective.
- 3.112. **Question 34: Do you consider that, in principle, all authorised pension providers should be able to provide targeted support? Are there any types of firms whose business model makes them less likely, or less appropriate, to provide it? We are particularly interested to hear from SIPP operators on their interest in providing targeted support.**
- 3.113. Historic litigation against SIPP providers has probably made such firms more cautious in any scenario which might be 'badged' as support.
- 3.114. From the perspective of one SIPP provider member, their bespoke 'empty wrapper' product is distributed via FCA regulated advisers in the main and so they would need to be mindful of any targeted support conflicting with ongoing advice they are receiving. In addition, the increasing number of execution only clients outside of advised memberships leads to greater caution because of the truly bespoke nature of their products in providing any targeted support for execution only members, because although they could use the extensive qualification they undertake on execution only members at application stage, to inform what targeted support might look like for those members (which will differ depending on why they are opening a SIPP), they will be mindful that they are not well plugged in to any changes to their circumstances from application.

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- 3.115. **Question 35: Do you think that advisers could provide targeted support based on the conduct framework we have proposed? If so, how do you consider appropriate consumer understanding of the service could be achieved?**
- 3.116. We do not see anything in the conduct framework that would prevent adviser firms offering a targeted support service, but whether such a firm develops such a proposition will be down to commercial viability and their business models.
- 3.117. We suspect that if an adviser firm does offer such a service, they would do so on the basis of complementing their holistic advice offerings – i.e. customers who do not currently pay an ongoing advice fee could be offered targeted support for one off transactions and customers who commence a targeted support journey, but then do not fall within an relevant consumer segment may be offered an advice service if appropriate.
- 3.118. The same regulatory framework should apply regardless of the type of firm offering a targeted support service and clear disclosures about the nature of the service needs to be made.
- 3.119. As with existing consumer duty requirements, firms would need to consider the appropriate level of consumer testing of such disclosures to be confident that customers understand what service they are getting.
- 3.120. It is worth noting that some of our members have highlighted concerns that consumers might be confused between targeted support and advice where advisers charge for targeted support, thus blurring the lines for consumers.
- 3.121. **Question 36: Are there any types of advice firm business model you consider to be well placed to deliver targeted support? For example, a pension provider which has an ‘advice arm’ to their business. Please explain your answer, providing examples if possible.**
- 3.122. The proposals outlined in the paper would appear to lend themselves more to the models of vertically integrated firms, especially if the costs of the service are met through an element of cross subsidisation.
- 3.123. **Question 37: Do you see any reason why advisers should be able to provide targeted support in relation to broader retail investments and not pensions?**
- 3.124. There would appear to be widespread industry support for what targeted support is aiming to achieve, and therefore we feel that many adviser firms will welcome the opportunity of developing such a service if it would complement their existing business model and can be done in a way that provides good outcomes for customers - and can be commercially viable.
- 3.125. **Question 38: Do you think there is a valid case for requiring all pension providers to provide targeted support? Please explain your reasons.**
- 3.126. Please see our response to question 20. We believe that the strongest argument is to restrict targeted support initiatives to commercial QPDS providers.
- 3.127. **Question 39: Do you think consumers should be able to complain to the Financial Ombudsman and bring claims to the FSCS in relation to targeted support? If not, why not?**
- 3.128. Several SPP members indicated that they did not believe that this should be permitted in the case of a single provider providing support solely in respect of the pension benefits on their watch. Again, for the reasons articulated in our answer to question 20, we do not anticipate any appetite for a ‘lead provider’ (with access to dashboard data) to accept liability for alleged losses in respect of a member’s other pension savings. Neither do we anticipate that a commercially viable insurance market would develop for such activity. Again, as noted in our response to question 20, we believe that this initiative has a far greater opportunity for successful engagement leading to better outcomes via providers of commercial QPDS platforms, whose risk appetite would seem more likely to accept the potential FOS/FSCS risks.

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- 3.129. That said, there is also a compelling argument that complaints effectively help to keep providers honest and therefore drive better outcomes for savers. For instance, if a provider says “people in your circumstances should pay 15% into their pension”, the saver does so and consequently gets into debt because they are on a low income (which the provider failed to take into account) it would appear reasonable that the customer has some form of potential redress. If providers can say what they like without censure, there will be little certainty that the suggestion and segmentation are appropriate.
- 3.130. **Question 40: Do you think our proposed conduct framework gives enough regulatory certainty for firms to implement targeted support commercially, taking into account potential redress liabilities? Please explain your reasoning and where more detailed rules would be helpful.**
- 3.131. These proposals are also relevant to certain non-FCA regulated firms, such as trustees of occupational pension schemes, whose members may face equivalent challenges in a DC context but be unable to afford regulated advice. Accordingly, these types of schemes need greater clarity on their scope to support their members in making decisions, and signposting options, without inadvertently providing regulated financial advice. Furthermore, they will need assurances that introducing a new framework for regulated firms to provide targeted support will not inadvertently create uncertainty concerning (or even restrict) their ability to support their members or comply with any obligations to provide support in future (e.g. as proposed in the 2024 King's Speech).
- 3.132. *Decumulation services*
- 3.133. The SPP would welcome clarification of how the FCA's proposed conduct framework will interact with provisions in the King's Speech placing duties on trustees of occupational pension schemes to offer a retirement income solution or range of solutions, including default investment options, to their members (see the King's Speech 2024, Briefing Paper (July 2024)). We anticipate that many schemes will seek to fulfil such duties (and/ or already support their members) by referring members to, or agreeing a formal arrangement with, FCA regulated firms to provide access to decumulation services (e.g. drawdown). The SPP would welcome assurances from the FCA, and TPR, that such arrangements would not breach any new requirements relating to the targeted support framework.
- 3.134. *Regulatory alignment*
- 3.135. Creating a diverging system for FCA regulated firms could result in savers facing an inconsistent experience across different types of pensions. Pushing the two regulatory regimes out of alignment could also inadvertently exacerbate regulatory uncertainty and potential liability for occupational schemes. For instance, occupational pension schemes could be forced to take steps to ensure they do not provide targeted support in addition to ensuring they do not provide advice, particularly where they facilitate access to FCA-regulated products (e.g. as part of the decumulation options offered by the scheme).
- 3.136. We would therefore encourage the FCA to work with TPR in developing this framework and facilitating greater support for informed decisions from both trustees of trust-based schemes and providers of contract-based schemes. As part of this process, we would welcome updated guidance from the FCA and TPR on where employers and trustees can provide support on financial matters without needing to be subject to FCA regulation (as issued in March 2021), particularly in the context of their interactions with FCA regulated firms.
- 3.137. **Question 41: In which aspect of the framework (e.g. verification process, aligning ready-made solutions to consumer segments) do you see the greatest liability risks arising? What controls would you put in place to manage these risks?**
- 3.138. Where firms provide additional support for the benefit of members, they would need to evaluate their potential liability for the steps they have, or have not taken, such as for:

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- a) aligning ready-made solutions with consumer segments appropriately, as a result of failing to identify common characteristics, or understanding holistic circumstances (e.g. due to having limited or imperfect access to information);
- b) adequately disclosing the role (and limits) of target support;
- c) unlawful indirect discrimination under the Equalities Act 20210 – e.g. providers may need to consider the scope for liability where protected characteristics (such as sex, age, or disability) have the potential to correlate with lower returns within a proposed ready-made solution, even where the better outcomes threshold has been met; and
- d) potential breach of data protection laws (see response to Question 42, below).

In terms of managing these risks:

- a) Firms providing targeted support will not have access to information concerning individuals' detailed circumstances, nor will their suggestions be optimised for individuals, so they will need clarity from the FCA and the Financial Ombudsman concerning how the scope for redress will differ from that arising from the provision of regulated financial advice.
  - b) Firms will be better placed to meet the FCA's expectations when communicating with consumers, if the FCA clearly prescribes the minimum standard of information firms should disclose to consumers getting targeted support, whilst retaining the flexibility of the Consumer Duty rules so that firms can tailor their communications to their own consumer base and processes.
  - c) The SPP would also welcome clarification from FCA concerning how providers should take account of protected characteristics when pre-defining relevant consumer segments and proposing proposed ready-made solution (see response to Question 22, above).
  - d) Obtaining adequate data (e.g. through questionnaires) could enable firms to manage some risks, but firms will need to balance this with liability under data privacy laws, and the scope of consumer engagement when operating on an opt out basis. Clear guidance and examples from the ICO (particularly concerning the use of the soft opt in rule) would help firms to achieve that balance.
- 3.139. Decisions concerning investments and life-changing sums of money can involve uncertain outcomes and unintended consequences (such as tax, or loss of investment returns), even where appropriate support has been provided. Consumers may also experience regret risk in relation to their decisions. Providers will need clarity concerning how responsibility for complex decisions will be allocated between providers and consumers if they decide to offer targeted support.
- 3.140. If firms believe they are unable to put adequate controls in place to manage these risks, they may seek to mitigate their exposure by limiting their role to the minimum required (which will not involve providing targeted support).
- 3.141. We also anticipate that rigorous record keeping concerning the consumer's decision-making processes will have a significant role in helping providers to manage risk.
- 3.142. **Recommendation 5: Much greater clarity is needed as to how responsibility for complex decisions will be allocated between providers and consumers if they decide to offer targeted support.**
- 3.143. **Question 42: Do you think targeted support, as proposed in this CP, could be delivered effectively to a wide market of consumers based on the existing direct marketing regulatory framework? If not, why not and what would be helpful to enable this effective delivery?**
- 3.144. The SPP agrees with the responses provided to DP23/5 which concluded that:
- a) there was a significant risk that *"electronic communications suggesting products and courses of action are very likely to constitute 'direct marketing'"*; and
  - b) PECR and wider data protection laws could impede the delivery of targeted support on an opt-out basis.
- 3.145. In particular, we note that the ICO's current guidance on regulatory communications provides that: *"if your message actively promotes an initiative, by highlighting the benefits and encouraging people to participate or take a particular course of action, it is likely to be direct marketing"*.
- 3.146. We welcome the FCA's assurances in its feedback on the Advice Guidance Boundary Review in November 2024, that it will continue to work with the Information Commissioner's Office and the Pensions Regulator on the application of PECR including how these interact with its proposals for targeted support.

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3.147. The SPP considers that it would be helpful if the Information Commissioner's Office (ICO) provided guidance on the framework proposed by the FCA including:

- a) examples of the types of targeted support that it would (and would not) view as direct marketing and where providers would be able to use soft opt-in (noting that the FCA is proposing that targeted support would be an opt-out service, but that there will be certain touchpoints with consumers throughout the proposed targeted support consumer journey);
- b) to what extent its approach to targeted support would align with ICO guidance on regulatory communications (noting that the FCA does not intend to introduce mandatory requirements to provide targeted support); and
- c) the circumstances in which it would consider firms had a lawful basis for processing data when taking different steps to provide targeted support (again, noting that there would be no legal obligation to provide such support). For instance, would firms have a legitimate interest in processing data to assess whether the threshold for providing targeted support was met, pre-defining relevant consumer segments that share common characteristics, and/ or determine whether particular consumers fall within those segments?

3.148. **Recommendation 6: The SPP welcomes the FCA's assurances that it will continue to work with the Information Commissioner's Office (ICO) but suggests it would be helpful if the ICO provided guidance on the framework proposed by the FCA as set out above.**

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

3.150. We would recommend that any framework for targeted support take account of the following examples of harm in the market, and ongoing initiatives to address this:

- a) pension scams, and the measures introduced to tackle them in the context of pension transfers under the Pension Schemes Act 2021 and supporting legislation;
- b) pension inequalities – e.g. arising from protected characteristics (see responses to Questions 22 and 41, above);
- c) inadequate emergency savings, which may contribute to low financial reliance and affect decisions during the accumulation phase;
- d) different challenges affecting groups falling outside the scope of auto-enrolment (e.g. self-employed individuals);
- e) competing pressures on employer resources, which may affect contribution rates and the form of pensions provision offered to employees; and
- f) mistrust and scepticism about financial services, which may affect the relationship between consumers and providers.

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

3.152. We anticipate that the following regulatory and economic changes could be relevant:

- a) the introduction of pensions dashboards;
- b) the rules and guidance for a new value for money (VFM) framework for savers invested in default arrangements of workplace DC pension schemes (as proposed in CP24/16);
- c) provisions in the Pension Schemes Bill, which will place duties on trustees of occupational pension schemes to offer a retirement income solution or range of solutions, including default investment options, to their members (see the King's Speech 2024, Briefing Paper (July 2024));
- d) reforms, as outlined in the Pensions Investment Review (November 2024), to achieve scale in workplace DC schemes and override individual contracts to allow the bulk transfer of assets for contract-based schemes without individual savers' consent;
- e) the decision to delay phase 2 of the pensions review, concerning pensions adequacy; and
- f) changes to pensions taxation, including changes to how inheritance tax will apply to unused pension pots from April 2027, as announced in the 2024 Autumn Budget.

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- 3.153. **Question 45: Do you agree with our assessment of how targeted support could mitigate market failures and reduce harm?**
- 3.154. In our experience, there is a growing trend among both FCA regulated firms and trustees of occupational pension schemes exploring how they can offer greater support to members when making decisions concerning their pension arrangements. Targeted support could reduce harm to consumers if there is sufficiently widespread take-up among FCA-regulated firms and the framework accommodates trustees of occupational pension schemes providing equivalent support. This will depend on whether the thresholds and expectations of the framework are proportionate and there is sufficient regulatory certainty and alignment concerning its application to trustees of occupational pension schemes.
- 3.155. **Question 46: Given the proposed targeted support framework set out in this CP, what types of costs do you as a firm anticipate facing up front and on an ongoing basis? Please provide any evidence, indicative estimates or financial modelling that you have carried out as part of your response.**
- 3.156. The costs a firm face would include the set up costs of designing and implementing targeted support - technology development would likely be the largest single cost for digital targeted support. Depending on the final rules, if a firm were to offer targeted support via telephony, it may need to use higher skilled staff with additional controls and supervision in addition to facing the increased costs created by additional risk. We have not carried out financial modelling on targeted support at this point.
- 3.157. **Question 47: Based on the targeted support framework set out in this CP, do you think providers of targeted support services (both vertically-integrated and non-vertically-integrated) would seek to differentiate their targeted support service to encourage adoption by mass-market consumers? For example, by differentiating the levels of investment in technology and data acquisition, the fees or charges levied (under all types of commercial models) or the scope / nature of targeted support propositions? Please explain your views, including any evidence you have used to inform these.**
- 3.158. Based on our members' conversations and participation in various industry working groups, we are only aware of vertically integrated or provider firms with definite plans to offer this service. We can conceptualise a non-vertically integrated provider choosing to offer a targeted support service on a paid for basis, taking data from a number of providers, but we have not come across a firm with plans to deliver such a service.
- 3.159. Most vertically integrated providers seem to plan to offer a no direct cost service, focused on a mix of new / existing customers focusing on helping consumers avoid common mistakes. The level of ambition is likely to differ between firms, but this level of detail is not shared amongst providers.
- 3.160. **Question 48: Do you agree with our assessment that targeted support may create risks related to mis-selling, biased selling or self-preferencing of products? If no, please explain why not. If yes, please outline scenarios or instances where risks may arise, and potential guardrails required to mitigate these consumer and competition harms.**
- 3.161. We agree risks of mis-selling, mis-buying etc. clearly exist in the context of targeted support and are an extension of such risks based on the existing regulatory framework. The risks of mis-selling, self-preferencing and/or biased selling can occur when the firm has not understood or ignored its obligations under the regulatory system. Mis-buying can occur if the firm has not effectively designed its targeted support offering.
- 3.162. Our suggested guardrails include a dedicated permission for which firms need to apply allowing the FCA to gatekeep entrants into the targeted support environment (a preventative control) and themed supervision activity/dedicated data gathering post implementation to assess the progress of the regime (a detective control).
- 3.163. A new permission in the RAO for a new targeted support activity would ensure the FCA can examine the business plan and submissions and only let those firms through that are most likely to be compliant with a new regime. It reduces the ability for bad actors to enter the targeted support market, provides a forward-looking supervision tool and prevents well-intentioned smaller firms with smaller compliance from getting it wrong (in the absence of an authorisation mechanism).

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- 3.164. Beyond these, we believe the existing regulatory toolkit employed by the FCA should provide adequate guardrails.
- 3.165. **Recommendation 7: Policymakers should consider a dedicated permission for which firms need to apply allowing the FCA to gatekeep entrants into the targeted support environment (a preventative control) and themed supervision activity/dedicated data gathering post implementation to assess the progress of the regime (a detective control).**
- 3.166. **Question 49: Please outline any other ways in which you think introducing targeted support may affect competition in the wider market for consumer support, including any areas we should consider further in our assessment of competition impacts.**
- 3.167. Introducing targeted support may have both a positive effect (by encouraging consumers to think more deeply about their choices and encouraging them to want to go further) and a negative effect (by satisfying consumer need) on the advice market but we believe the latter is likely to be marginal.
- 3.168. Targeted support may also provide an opportunity for fintechs to offer new services although the lack of Open Finance standards may make this challenging and we are not aware of any fintechs with such plans. Over time, we can foresee that a targeted support offering would become a market standard in mainstream pensions, which may increase the cost to serve but at the same time provide consumers with a richer, more valuable service.
- 3.169. **Question 50: Please explain how you think providers of targeted support services could design their provision in a way that complements their current or future business strategies. Where possible, please outline how you think providers may view targeted support services as a potential commercial opportunity, and why.**
- 3.170. In general terms, we believe that there is an alignment between customers being better supported to make good decisions and firms commercial strategies.
- 3.171. From a commercial perspective, targeted support will have advantages for firms whose business strategies are based on the long term support of customers through a variety of life stages and products. These advantages arise from several sources;
- 1) by helping consumers avoid obvious harms and maximising the value of the assets they hold, all other things being equal, leaving customers with increased assets;
  - 2) the same beneficial effects mean that consumers will likely hold their assets for longer, again generating a beneficial commercial impact
  - 3) more content consumers are more likely to recommend their provider to others
  - 4) consider the provider where a venue for further investment/pension provision is sought.

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#### **4. About The Society of Pension Professionals**

- 4.1. SPP is the representative body for a wide range of providers of advice and services to pension schemes, trustees and employers. Our work harnesses the expertise of our membership, striving for a positive impact on pension scheme members, the pensions industry and its stakeholders.
- 4.2. The breadth of our members is a unique strength for the SPP and includes actuaries, lawyers, professional trustees, DC consultants, investment managers, providers, administrators, covenant assessors, and other pension specialists, delivering a wide range of services.
- 4.3. We were founded in 1958, as the Society of Pension Consultants, bringing together professionals to positively influence pension policy, support the development of legislation and provide members with access to technical information and insight into key industry policy debates.
- 4.4. In 2014, we renamed as The Society of Pension Professionals, broadening the range of professionals engaged in membership.
- 4.5. SPP is a company limited by guarantee.

#### **5. Further information**

- 5.1. For more information about this consultation response please contact SPP Head of Public Policy & PR at: [phil.hall@the-spp.co.uk](mailto:phil.hall@the-spp.co.uk) or telephone the SPP on 0207 353 1688.
- 5.2. To find out more about the SPP please visit the SPP web site: <https://the-spp.co.uk/>
- 5.3. Connect with us on LinkedIn at: <https://www.linkedin.com/company/the-society-of-pension-professionals/>
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