

Association of Professional Pension Trustees
Second Floor (206)
40 Gracechurch Street
London EC3V 0BT

secretariat@appt.org.uk

www.appt.org.uk



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Targeted support policy team, Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN
Issued by email to cp25-17@fca.org.uk

Dear All,

Advice Guidance Boundary Review – proposed targeted support reforms for pensions

I am writing on behalf of the **Association of Professional Pension Trustees (APPT)** in response to the above consultation.

The Association of Professional Pension Trustees acts as the representative body for trustees of occupational pension schemes who fall within the Pension Regulator's description of professional trustee as set out in its August 2017 policy document.

The APPT acts as the collective voice of the profession. Our members sit on many trustee boards for defined benefit and defined contribution (DC) schemes including DC master trusts. Our members each typically work on multiple appointments and, across DB and DC are in total responsible for managing schemes with assets of over £1,200bn.

Our responses to specific questions are set out in the appendix to this letter. **We have only responded to those questions that we feel it is appropriate for us to comment.**

We hope that you find the contents of this letter of assistance. We would be happy to discuss them further if that is helpful. In that event, please contact Vassos Vassou, APPT Vice Chair and Chair of our Legislation and Regulation Sub-Committee at Vassos_Vassou@dalriadatrustees.co.uk

Yours sincerely

Rachel Croft
Chair
On behalf of the
Association of Professional Pension Trustees
Rachel.Croft@weareigg.com
M: +44 (0)7387 258538

Appendix – Comments from the Association of Professional Pension Trustees (APPT)

FCA Consultation Paper CP 25/17: Consultation on Supporting consumers' pensions and investment decisions: proposals for targeted support

We are supportive of the overall policy intent. We believe that Targeted Support will, if done well, improve outcomes for members and will fill a significant advice gap in a cost-effective way. Care will be needed to ensure that as other significant workstreams are developed, particularly Guided Retirement, these fit harmoniously with the Targeted Support framework. (The direction of travel for the two is broadly the same but it will need attention to ensure they work together well).

Simplified Advice is an example of trying something similar without much success. It illustrates how the success of this will depend on FCA and FOS being clear about their approach and their recognition that the aim is to get a high volume of advice based on a lower level of understanding of customers, in order to drive action by the majority of customers (members) who would not pay for advice. To enable this “good enough rather than perfect” approach to flourish will depend on clear boundaries established by FCA and FOS and a balanced approach. FCA need to actively monitor implementation and tackle those misusing the system, whilst at the same time recognising that the system depends on a sensible overall approach to customer segmentation but not perfect understanding of each. It will not work well if TS communications are full of caveats and disclaimers, which mean recipients are disengaged.

There will be some areas that this is not right for. We agree with the proposed carve out for Annuities – though providers will need to be able to suggest considering annuities without signposting a particular product or provider. We also agree with excluding the ability to suggest consolidation of pots into a particular product.

There are very limited references in the consultation to FCA working with TPR. The FCA will need to ensure a joined up approach with TPR to avoid regulatory confusion inhibiting development of the approach.

We anticipate that, since to undertake Targeted Support an entity needs to be authorised by the FCA, this will typically mean being a corporate. For Master Trusts that could be done by trustees if they form a corporate entity but, given the scale of the task, they are likely to leave this to the scheme funder. For sole employer DC trusts, only the largest are likely to look at doing this. Regulations should enable trustees to subcontract Targeted Support to another party, since not providing this would disadvantage their members against those in trusts / Master Trusts that do.

Where trustees decide to leave provision to the corporate (scheme funder) or another subcontracted party, they will need to be clear to members who the Targeted Support is provided by. They need to understand the implications of Targeted Support for their communications with members. FCA should be mindful to be clear on implications for trustees but should seek to avoid these restricting communications that trustees can currently make.

Responses to specific questions

Question 1: Do you have any comments on our proposed 'better outcomes' purpose statement? – **This appears to assume that the comparator for “better outcomes” is the current position (i.e. assumes inaction) and that Targeted Support comms can offer options restricted to own products. This appears pragmatic and reasonable as a basis to drive action**

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? – **we are comfortable with better outcomes – that should be the key measure of any financial product – whether it is likely to have better outcomes**

Question 3: Do you foresee any challenges in meeting the requirements to ensure the suitability of recommendations made through the targeted support framework? **No, provided we have a sufficiently clear understanding of consumer groupings and enough identification of contra indicators. We think communications should set out key drivers for inclusion in consumer grouping and main contra indicators so customer can be clear it applies to them.**

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. – **we don't have a view on this**

Question 5: Are our proposed rules sufficiently future-proof and outcomes focused to accommodate changes in technology? If not, why not – **Overall AI should be a facilitator but should not drive principles. However, as AI develops, there may come the potential for full service holistic advice using AI (robo-advice). This would need a separate framework (or review of existing framework to test application).**

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. – **we don't have a view on this**

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 depends on the requirements on trustees iro guided retirement and where DWP draws the line for trustee duty. Generally, we think that trustees should leave the provision of Targeted Support to the corporate where possible. This is particularly the case for Master Trusts, or where a single trust scheme has partnered with an FCA regulated provider. The Corporate will have the infrastructure to properly segment the membership and monitor the outcomes of the system. It remains cleaner if TS is provided only by the corporate. However, trustees will have an interest in understanding the areas where TS is provided, agreeing the cohorts and ready-made solutions, understanding what the outcomes are and being comfortable that monitoring is effective. Trustees will also need to be comfortable that any TS approach taken does not confuse/conflict with the guided retirement duties.**

For Single Employer DC Trusts, the position will be more complex. The majority of single Employer DC schemes will not have the scale to undertake the analysis necessary to build

appropriate cohorts and Targeted Support propositions, or to achieve authorisation to provide TS. It would be helpful if the framework facilitated partnering by trustees of single employer trusts with authorised entities who could provide TS for them, which again would link with the Guided Retirement requirements. Without this, they will miss the opportunity to improve their offering to their members, whose position may suffer as a result. The framework should also enable trustees of the largest Single Employer DC Trusts to obtain authorisation to provide TS.

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) – **Whether trustees will seek to provide this themselves or, instead, would ensure the corporate could provide it will depend on their structure (e.g. master trust / single employer DC). Whether they would choose to provide this themselves, trustees are likely to want to provide prompts re contribution levels / levels of drawdown in retirement / choices at retirement. This is not deliverable under the current framework at a level of specificity that will effectively drive action. Where this is provided under TS by the corporate, trustees will want to input to the areas of focus from the corporate. Generally, responses will be channelled into the corporate, so the process will be cleaner if the corporate can have control of the whole customer journey. However, where they don't provide TS, trustees will want to provide general messages re adequacy / rate of drawdown which should fall outside the TS and existing frameworks for advice**

Question 9: Do you have any other comments on our proposals around pre-defining situations to provide targeted support – **We believe it would be helpful for FCA to pre-define some common situations to ensure consistency, but without limiting the ability for firms/trustees to define further situations. We agree with keeping it fluid so authorised parties can continue to develop situations based on developing product choices and ongoing understanding of customer needs. It is important to highlight to customers the key characteristics of their group that underpin the advice and any obvious excluding characteristics**

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. – **Yes this is sensible provided firms overtly set out their design assumptions (so visible to FCA / FOS in need) and confirm key elements of these to customers**

Question 11: How could firms decide between when to make an assumption and when to pre-define a common characteristic of a consumer segment? **We don't have a view on this**

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? **We agree that excluding characteristics are particularly important to identify and communicate**

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 – **Yes, that would be helpful**

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? – **Yes we agree**

Question 15: Do you agree with our proposals for targeted support on annuities, including banning suggestions for a particular annuity? **Yes but it is important that there is a route to indicate annuities are probably the most suitable solution and signpost the customer to the next part of the consumer journey**

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 and think it would be helpful if FCA specify a period for that break**

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? **We agree with the proposal but guidance/signposting should be provided to help a consumer with multiple small pots to consolidate. Links with the extent to which assumptions are made about the existence of other pension pots.**

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? **We agree**

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? – **N/a**

Question 20: Are there specific situations where firms might hold other information not covered by excluding characteristics that would render ready-made suggestions unsuitable? **Not that we can think of - Relies on defining excluding characteristics appropriately.**

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

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 - **No**

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? **Yes**

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

Question 25: Beyond monitoring outcomes, are there any specific areas, with reference to our draft Handbook proposals, that you wish to provide comments on? **No**

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? **Yes, we strongly agree**

with disclosing common characteristics and reasonable assumptions. Providers should also disclose excluding characteristics so customers can check they don't apply

Question 27: Do you require any further guidance on the use of risk warnings in marketing for mainstream investment products? **No**

Question 28: Are there any other aspects of our proposals around communications that you wish to provide comments on? **No**

Question 29: Should we require that every consumer exited from a targeted support journey must be signposted to other forms of support? **No** - Or do you agree is it sufficient for firms to consider whether this is appropriate? – **Yes** - Are there particular scenarios where this needs to be required? **Significant decisions (e.g. retirement choices or where financial vulnerability identified)**

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

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? **Yes**

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 don't have a view on this**

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**

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? – **We don't have a view on this**

Question 35: What specific changes are needed to investment pathways to enable the effective 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 serve – **We don't have a view on this**

Question 36: Does the current prudential framework capture the possible risks from targeted support as a firm scales up its activities? – **We don't have a view on this**

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? – **Yes, we think that required reg capital should increase with the scale of the operation for which Targeted Support is provided, to reflect the increased risk of harm. We don't have a specific proposal but something related to AUM for which Targeted support is provided feels reasonable.**

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? – **Will there be crossover with Pensions**

Ombudsman where TS is used for Pensions advice? Can FOS work with POS to clarify the boundary? Also it would be helpful to have examples from FOS to indicate how they will approach matters. These illustrations would be likely to increase provider confidence to produce clear, readable communications that would not be subject to a level of caveats that would reduce their impact.

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**

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 – **Yes, case studies (consultation suggests these will be produced once FOS and FCA have experience of the regime). That is useful as long as examples are also provided up front to give a base to work from**

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 – **Yes to both**

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? – **This is really a question for corporates rather than trustees (who we represent), but the consultation details suggest that this is an issue which will need resolving to make Targeted Support work in the pensions arena.**

Question 44: Do you agree with our 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? - **This is really a question for corporates rather than trustees, but generally the approach looks sensible.**

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 - **We don’t have a view on this**

Question 46: How would you assess whether your targeted support service is delivering intended outcomes for consumers? – **The factors set out in 8:20 look sensible metrics**

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? - **We don’t have a view on this**

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 - **We don’t have a view on this.**