Response by TISA to CP21/32:
Improving outcomes in non-workplace pensions

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About TISA

The Investing and Saving Alliance (TISA) is a unique, rapidly growing membership organisation for UK financial services.

Our ambition is to improve the financial wellbeing of all UK consumers. We do this by focusing the convening the power of our broad industry membership base around the key issues to deliver practical solutions and devise innovative, evidence-based strategic proposals for government, policy makers and regulators that address major consumer issues.

TISA membership is representative of **all sectors of the financial services industry.** We have **over 240-member firms involved in the supply and distribution of savings, investment products and associated services**, including the UK's major investment managers, retail banks, online platforms, insurance companies, pension providers, distributors, building societies, wealth managers, third party administrators, Fintech businesses, financial consultants, financial advisers, industry infrastructure providers and stockbrokers.

As consumers, the financial services industry and the economy react to and recover from the effects of the pandemic, the importance of the three key pillars of work that TISA prioritises has never been more apparent:

- **Strategic policy initiatives** regarding the financial wellbeing of UK consumers & thereby enhancing the environment within which the industry operates in the key areas of **consumer guidance, retirement planning, later lifetime lending, vulnerable customers, financial education, savings and investments**.
- TISA is recognised for the **expert technical support provided to members** on a range of operational and regulatory issues targeted at improving infrastructure and processes, establishing standards of good practice and the interpretation and implementation of new rules and regulations covering **MiFID II, CASS, ESG/RSI, operational resilience, Cyber Risk, SM&CR** and a range of other areas.
- **Digital transformation initiatives** that are driving ground-breaking innovation and the development of industry infrastructure for greater operational effectiveness and revenue promoting opportunity for firms. TISA has become a major industry delivery organisation for consumer focused, digital industry infrastructure initiatives – **TISAtech** (a digital marketplace that brings together financial institutions and FinTechs for greater collaboration and innovation) and **TURN** (TISA Universal Reporting Network – a digital platform providing a secure data exchange for financial services using blockchain technology) – alongside projects **Digital ID** and **Open Savings & Investment**. This reflects TISA's commitment to open standards and independent governance.

Executive Summary

TISA welcomes the opportunity to respond to the FCA consultation CP21/32 - Improving outcomes in non-workplace pensions.

There has been a strong recent focus on the accumulation phase of workplace pensions, with new regulation laid down designed to improve Value for Money for scheme members. Although there are significant differences, it is important that there remains a focus on non-workplace (NWP) schemes, to ensure that similar protections and support are provided to the non-advised, where potential harms are identified.

Given the outputs from the FCA's research, we fully support the fundamental principles of simplifying the investment decision making process for a particular group and alerting individuals when cash holdings have exceeded a threshold for a sustained period.

We currently have policy work and a dialogue open with FCA and HM Treasury to develop a regulatory regime to allow firms to provide more personalised guidance and support to their customers. A notable development is the FCA's plan to consult with industry on the introduction of a guided/simplified advice regime for Stocks & Shares ISAs, which would make it easier for firms to position a range of investments to consumers. TISA believes consistency in consumer journeys helps break down engagement barriers, increases consumer confidence and trust, and aids understanding. TISA believes that ideally, consumer journeys should be product agnostic as the need for guidance on investments is not determined by the tax wrapper the money is invested in. The risk of the proposed default fund arrangement for NWP schemes is that it may create an inconsistency in the consumer journey across tax advantaged products (e.g. ISAs vs SIPPs). We recommend that the FCA considers its NWP policy proposals in light of its future intended policy proposals for Stocks & Shares ISAs.

We do need to be mindful that pension schemes and in particular pension products will attract different types of consumers, with the typical client profile likely to vary significantly across all NWP schemes. Whilst we welcome the element of flexibility provided in the proposals, we believe there is scope for less prescriptiveness to enable firms to tailor implementations, given they are best placed to understand their client base and target market. Such an approach can be taken with confidence, given the fundamental principles and proposed requirements to consider client outcomes under the new Consumer Duty.

Industry is experiencing a heavy and sustained period of regulatory change which is look set to continue for many months, with the introduction of some high priority and wide-ranging change such as the new Consumer Duty and Pension Dashboards. Whilst we are broadly supportive of all proposed change currently in progress and in the pipeline, we would expect proposed timelines to reflect this. This will enable industry to respond with well thought through, consumer tested and robust propositions, which fully embrace and deliver on the underlying principles and objectives.

Question responses

Q1: Do you agree that we should require firms to offer a single default option rather than multiple default options / investment pathways?

Unlike Decumulation where a variety of retirement options and beneficial outcomes exist, there is one beneficial outcome in Accumulation. A single default option aligned to the characteristics of a scheme's typical non-advised customer is an appropriate approach. We do, however, recommend that the FCA considers its NWP policy proposals in light of its future intended policy proposals for Stocks & Shares ISAs (which we believe would involve consumers being offered multiple options).

Q2: Do you think there is a case for requiring firms with only legacy NWP business to make a default option available to their customers?

Non-engaged consumers invested in legacy NWP schemes are at a potentially greater risk of detriment than other groups, however we do not believe the introduction of a default investment option is likely to drive the intended behavioural change. Given the risks typically inherent in legacy schemes, we are pleased to see this specifically included in the new Consumer Duty consultation.

Q3: Do you agree that we should require firms to offer a default option to all non-advised consumers entering into an NWP? If not, what would you propose?

We have no strong views that oppose this proposal. There is potential benefit in considering a small non-advised de-minimis to provide limited flexibility for advised-only schemes, and an age threshold to reflect the reducing impact of a default as retirement approaches.

Q4: Do you agree that we should not require firms to offer a default option to advised consumers or consumers using discretionary investment management services for their NWP?

Yes, we agree with this proposal.

Q5: Do you think we are right to exempt bespoke SIPPs? Do you see any issues with our proposed approach? If so, what would you suggest?

We note from paragraph 3.28 that there is no separate exemption provision for bespoke SIPPs, however we agree with the proposal that the rules only apply to firms operating NWPs that offer investments.

Q6: Do you agree that the default option should be offered upfront, in menus of investment choices, and alongside decision trees or tools? If not, what would you suggest?

We welcome the non-prescriptive nature of the proposal but would suggest an amendment. The wording in paragraph 3.8 states that firms would be required to present the default option in an 'appropriately prominent way', although we note 'appropriate' is not included in the draft COBS update. Given that the knowledge and engagement level of a typical non-advised consumer will vary, possibly considerably between NWP schemes, we believe the scheme is best placed to determine what 'appropriately prominent' means in terms of delivering good consumer outcomes and where the default option should feature in the process.

If a scheme believes their typical non-advised client is well engaged, it may be deemed appropriate to not present the default option upfront and include it later in the process. If the typical non-advised client is disengaged, it may be deemed appropriate to include it upfront.

This amendment provides the important distinction that not all non-advised clients are equal and enables schemes to determine the most appropriate client journey for their target market.

Q7: Do you agree with our proposals for how a default option would be offered?

In addition to our response to Q1 and 6, we believe the name 'standardised investment strategy' maybe confusing for consumers and not clearly reflect its objective. The fund should provide good outcomes for non-advised and disengaged consumers, but ideally, we want them to become more informed and engaged over time through communications and the use of online tools and calculators. For many we see this fund as the first stepping-stone in the NWP investment and retirement journey, with the expectation they will, over time, move into funds more appropriate to their individual circumstances. We suggest that, subject to behavioural testing, firms adopt the name 'starter fund' which describes to both industry and the consumer what this fund represents and how we ideally see this operating.

Q8: Do you agree that we should extend our product governance rules in PROD 4 to all manufacturers and distributors of default options?

Yes, we agree with this proposal and is consistent with Pathway Investment governance.

Q9: We have sought to enable different models of default option while ensuring that firms take account of ESG risks and the need for lifestyling. Do you think we have provided sufficient flexibility? Alternatively, do you think we should be more prescriptive?

Whilst we welcome the flexibility the proposals provide, we believe that updates could be made to lifestyling expectations.

We agree that de-risking as retirement approaches is a likely requirement for those remaining in the default option. Lifestyling is one mechanism which enables this to occur, however we believe this term should be expanded upon so that firms apply 'appropriate de-risking' in the years preceding selected retirement date. This may take the form of traditional lifestyling, however it provides firms with the flexibility and opportunities to adopt other strategies to meet the needs of their individual target markets.

Q10: Do you agree that we should not extend the remit of IGCs/GAAs or cap the charges of default options at this time?

We believe the focus of the default investment option should be Value for Money (VfM). If firms adhere to this principle, there should be no need for a charge cap.

It would not be helpful for all concerned, or progressive if default investment options are constructed on a VfM basis, only for a cap to be introduced in future years which forces a change in underlying fund structures.

We also agree that the remit of IGCs and GAAs are not extended to include NWP default options at this time.

Q11: Do you agree with our proposed implementation timeline for the default option?

Industry is experiencing a heavy and sustained period of regulatory change which is look set to continue for many months, with the introduction of some high priority and wide-ranging change such as the new Consumer Duty and Pension Dashboards. Our members' regulatory change schedules are already full for the next 12 months and beyond.

Given the pressure placed on the pensions industry and others included in the value chain, we believe that regulators need to prioritise proposed change and consider where overlap occurs. For example, given its remit, we would expect the overarching Consumer Duty framework to take priority, however some of the requirements proposed in this consultation may be addressed as firms progress their work in that regard. It would therefore not be appropriate for the implementation timeline to end prior to the Consumer Duty timeline.

We should also consider the impact that non-pension regulatory change can have on consumer journeys and implementation timelines, particularly where this results in a product level divergence in the options, support and guidance available to customers who are faced with investment decisions.

These product level differences will create challenges for providers such as platforms who will need to consider building separate product level propositions that are likely to be used by a single consumer at the same time.

Putting a timeline against the above, firms will require at least 18 months from publication of the final rules to create and implement robust propositions which deliver on the objectives.

Q12: Do you agree with our proposals for cash warnings to be given to consumers with significant and sustained cash holdings in their NWPs?

Given the research results, we agree that consumers should be made aware of significant and sustained cash holdings. We believe this could be achieved through the new Consumer Duty, with a general requirement placed on firms to ensure regular monitoring takes place and appropriate action taken based on client profile(s). This approach recognises that scheme members are not a homogenous group and provides the flexibility to enable firms to develop processes which are aligned to the needs of their clients.

Some TISA members have indicated they may wish to include cash holdings generated through lifestyling/de-risking in their assessments, so firms should be given flexibility in this regard.

The remainder of the cash warning questions have been addressed on the basis of the proposals.

Q13: Do you agree that we should make cash warnings mandatory up to the proposed age limit, with guidance that providers should consider giving cash warnings beyond that age limit?

To ensure consumers receive consistent outcomes across all schemes, we believe that no age limit should apply.

Q14: Do you agree that we should require cash warnings for all consumers who meet the conditions, including advised consumers?

Yes, we agree with this proposal.

Q15: Do you agree that we should not at this time require providers to ensure an active decision to hold cash in an NWP?

Yes, we agree with this proposal.

Q16: Do you agree that we should not exempt bespoke SIPP operators from the proposed requirement to give cash warnings?

Yes, we agree with this proposal.

Q17: Do you agree with our proposals for the content of a cash warning?

Whilst it is generally accepted that holding cash for a sustained period is not a good outcome, there may be instances where this occurs from an individual's perspective for good reason. We believe that this should be positioned as a cash notification or communication rather than a cash warning. Similarly, the impact that inflation has on cash holdings may unintentionally scare consumers into withdrawing their pots at the earliest opportunity. It is important that the content of the notification provides a balanced message.

Q18: Do you agree with our proposals for when the need for a cash warning would be assessed?

The proposed approach of three-monthly assessments is one way to achieve the proposed objective. However, we believe that firms should be given the flexibility to adopt a different assessment approach should they choose, as long as it meets the proposed objective e.g. conduct six monthly assessments.

Q19: Do you agree with our proposed timeframe for sending cash warnings? If not, what would you suggest?

Giving schemes the discretion to determine an appropriate time to send notifications based on market activity is likely to lead to inconsistencies in consumer outcomes. Many firms will not have the necessary experience or knowledge to make these determinations. There is a very real risk that where firms use discretion to determine when to send a cash warning, any financial detriment caused because of that discretion could be used to form the basis of a complaint, particularly during periods of high market volatility.

It is right that limited flexibility exists to recognise delays resulting from process and system constraints. However, firms should send notifications without delay once the process has completed in all instances, to avoid any unintended consequences and to achieve broadly consistent timescales across all NWP schemes. We believe this should be made clear in the final rules.

As mentioned in our response to Q17, the content of the notification is crucial to ensure this provides a balanced message, which is appropriate irrespective of market conditions at that time.

Q20: Do you agree that we should provide guidance on the data we would expect providers to retain? Are there other data you think important?

It is important that guidance on expected data requirements is provided to enable providers to include this within their respective implementation builds.

The data capture should provide the necessary information required to enable assessments to be undertaken which monitor the effectiveness of the final rules and indicate whether they meet the desired objectives. We would question whether a breakdown of customers before and after rule implementation would be particularly useful in this regard.

More generally, there are rules in place to ensure firms meet relevant regulations and as such, we would not anticipate any data requirements to evidence this adherence.

Q21: Do you agree with our proposed implementation timeline for cash warnings?

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Q22: Do you have any comments on our cost benefit analysis?

N/A