TISA

Response by TISA to FCA CP25/26: Consequential Handbook changes following the proposals in CP25/17

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About TISA

Supporting the financial journey through life

The Investing and Saving Alliance (TISA) is committed to improving the financial wellbeing of all UK consumers by working collectively with the financial services industry to deliver solutions and champion innovation, for the benefit of people, our industry, and the nation.

We do this by working with our member firms to deliver practical solutions and devise innovative, evidence-based strategic proposals for government, policy makers and regulators that address major consumer issues.

We care about the entire financial life of consumers: from their first savings account opened to ensuring people can age and retire with dignity. TISA believes that savings and investments play a significant role in the lives of people and small businesses. Consumers benefit when they put aside money for their future. Saving and investing can provide a buffer for emergencies; help people achieve big and small goals throughout their lifetime; and give people quality of life in later years.

TISA is a not-for-profit membership organisation and a trusted partner of key industry stakeholders in helping shape the future of the UK financial services and the environment in which we operate. We have approximately 270 member firms involved in the supply and distribution of savings and investment products and associated services.

Our work, your influence

Our policy work reflects TISA's broad scope of interests and aims on meeting the needs of UK consumers, members and our industry. From improving financial education, inclusion and accessibility, right through to savings, investments and retirement planning, the work we do with our members to **influence policy** is crucial in enhancing the industry we operate in and driving positive change.

As part of our commitment to delivering focused and impactful consumer outcomes, TISA's policy working groups have been structured into **four distinct workstreams**:

1. **Consumer Protection -** *Protecting the best interests of UK consumers in their financial journeys.*
2. **Consumer Access -** *Considering issues that could directly impact access to financial products.*
3. **Effective Products -** *Examining key considerations and legislation relating to products across the investing and saving landscape.*
4. **Corporate Responsibility**
   Exploring issues that directly impact society, the environment, and the economy.

All groups focus on both strategic and technical elements of policy/regulation. We provide a channel for firms to have their say on the policy we develop and present, contribute to our technical and regulatory interpretation work and, importantly, gain insights from other TISA members, policy makers, government and regulators.

Find out more about TISA here: **www.tisa.uk.com/about-tisa**

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Summary of Recommendations

TISA welcomes the opportunity to respond to the FCA's consultation on targeted support. We would like to thank the FCA for pursuing this policy at pace and for adopting a collaborative, constructive way of working. We would note that the consultation has an exceptionally short deadline, which may impact the number of responses the FCA receives, as well as limiting the depth of discussions that ultimately inform responses. We agree with the FCA that it is important to get the Targeted Support framework right, and the truncated consultation period may lead to unintended consequences.

The proposals in relation to the compulsory signposting the Targeted Support service in pension communications are overzealous. These disclosures would apply regardless on whether the firm itself offers Targeted Support. They are also written as if Targeted Support will be a mass market solution that is readily available to all consumers from the day the Authorisation Gateway opens. This will not be the case. It will take time for firms to receive authorisation, operationalise and scale Targeted Support services. Firms may also adopt different models, with some only offering Targeted Support on a reactive basis and others adopting more proactive models. This will vary across firms. The proposed disclosure requirements require firms to undertake widespread updates to existing pension-related communications that mention guidance and advice services, again requiring signposting to a service that may not exist or be available to customers. These obligations extend to firms that do not provide Targeted Support. Such wholescale updating of existing communications for firms that do not offer Targeted Support is not appropriate especially given the incentives firms have to publicise their Targeted Support services in an accurate and relevant manner. The FCA's proposed requirements have wider cost implications for the industry, requiring technology build to update processes and statements.

We also envisage that firms will not label Targeted Support communications as "Targeted Support", meaning that the terminology being mandated in proposed disclosure requirements may not reflect the reality of Targeted Support services. The FCA should not use these requirements as a way of prescribing terminology that is jargonistic and likely to confuse consumers.

Thus, we have difficulties with timing, scope and substance of the disclosure requirements. Given the incentives firms will have to market their Targeted Support services, and the diverse delivery models that are available to firms, we do not think the FCA should mandate the way in which firms signpost this service. A blanket approach is unnecessary and is unlikely to reflect the actual service the firm is offering and leading to consumer frustration and complaints. We recommend that firms are allowed to design their own disclosure and marketing approaches.

More generally, we would encourage the FCA to adopt a principled-based approach to disclosure requirements, in order to prevent duplicative disclosures. We are trying to move away from standalone, prescriptive compliance and move towards innovative, engaging customers journeys that further the Consumer Duty. Adopting this principle would provide a helpful guide to help firms

navigate the changing legislative and regulatory landscape and ensure consumers receive timely, proportionate and useful information.

We also recommend that the FCA changes its current proposals on remuneration disclosures and limitations. We are concerned that the current approach will cause consumer confusion and distrust. We support the FCA's proposal to require firms to disclose limitations to their Targeted Support service, as this provides direct, intelligible information that consumers can more easily assess. We are also concerned that the proposals on remuneration models may restrict the ability of trust based pension schemes to outsource Targeted Support services to external, FCA-authorised providers. We recommend that the FCA rethinks its approach to remuneration disclosures and more readily permits the outsourcing of Targeted Support services.

We note that there is inconsistency in the treatment of Targeted Support: sometimes it is bundled with advice (e.g. cancellation rights), sometimes separated as being distinct from advice and closer to unadvised sales (e.g. reg reporting requirements). The FCA could consider recognising Targeted Support as a new, distinct regime. This may be helpful in many respects; for example, ensuring consistent application of FCA rules and guidance, tailoring the measurement of the impact of Targeted Support, ensuring FOS aligns its approach with the pre-defined, limited nature of Targeted Support (as opposed to forms of Advice), and ensuring information provided to customers is relevant and proportionate.

We would like to thank FCA for the opportunity to comment and for their proactive engagement with TISA and TISA members. This continues to be an area of fundamental importance to TISA and TISA members. We would be happy to discuss our recommendations and any other aspects of our consultation response. We look forward to FCA and HMT finalising their policy work on the targeted support regulatory framework and we stand ready to engage, collaborate and lend out support to help achieve successful policy implementation and the policy objectives.

Responses to Consultation Questions

Question 1: Do you agree with the proposed amendments to the Glossary definitions? If not, please set out your reasons.

We question the inclusion of providing a ready-made suggestion via Targeted Support within the definition of *marketing*. Given the issues with the application of the Privacy & Electronic Communications Regulation to Targeted Support, this statement may limit the options available to the Government and ICO to provide a work-around or solution.

Question 2: Do you agree with the proposed amendments to SYSC? If not, please set out your reasons.

Yes. In addition, it would be helpful for the FCA to provide some guidance on its expectations in relation to competency and knowledge in the scenario where an execution only platform also offers Targeted Support. For example, are additional, new product knowledge requirements applicable because the firm offers Targeted Support in respect of the relevant product? Or is the firm only required to continue its existing baseline of competency and knowledge as an execution only provider? We would welcome clarity from the FCA on this point as we think this will otherwise present a risk of sub-optimal provision of Targeted Support.

Question 3: Do you agree with the proposed application of the rules on structured deposits and on TPPs in COBS 1 to targeted support? If not, please set out your reasons.

Yes.

Question 4: Are there cases where a firm may need to carry out an appropriateness assessment in relation to a transaction recommended by another firm through targeted support? If yes, please provide examples.

We have raised this matter with TISA members and are not aware of any such scenarios.

Question 5: Do you agree with the proposed amendments to COBS 9B.8 and COBS 9B.8A? If not, please set out your reasons.

We do not agree with the FCA's proposals as they duplicate much clearer, accessible disclosure requirements and are likely to cause consumer confusion. We do not understand the FCA's desire to make consumers understand the commercial basis on which Targeted Support is provided – i.e. to understand cross-subsidisation. This could also extend to explaining internal and external outsourcing and supplier relationships (e.g. for large corporate groups, or where a pension administrator provides Targeted Support to the members of a trust based pension scheme). These types of arrangements are not explained to consumers for example, when they open free current accounts, or non-vulnerable customers are not informed that they are cross subsidising the

additional costs associated with serving vulnerable customers. The costs of internal or external outsourcing arrangements are not disclosed to customers, for example, when product updates or account changes are made by an external call centre provider. We do not understand why an exception should be made for Targeted Support. We are concerned that the FCA's current proposal is likely to cause consumer confusion and distrust, undermining the purpose of Targeted Support. Even a generic statement about cross-subsidisation is likely to cause more confusion than clarity amongst the target market for Targeted Support. Targeted Support is trying to engage customers and support them in their financial decision making. Given consumers can struggle to understand direct costs and charges which are applicable to them, requiring firms to disclose arrangements that are not linked to explicit charges seems fatuous.

Given the FCA's competition objective, we can understand why the FCA may want to prohibit certain types of costing structures and models. However, these rules enable the FCA to appropriately regulate and supervise, rather than being there to fulfil a consumer disclosure purpose.

Inherent within the Targeted Support regime is the implication that recipients' current financial understanding and financial behaviours can be improved. It is envisioned that Targeted Support journeys will help consumers understand that where savings accounts pay a rate of interest that is lower than inflation, savers are getting poorer in real terms; or Targeted Support can explain that a 10% withdrawal rate from a pension is unlikely to be sustainable. We think it is highly unlikely that most Targeted Support customers will want to understand financial services firms' business models, or consider the potential of a firm's financial arrangements to impact the Targeted Support which it provides. Some TISA members have indicated that they do not see how they can comply with this draft rule – i.e. they are not sure it is possible to ensure that Targeted Support customers understand their commercial model. This could lead to firms not providing Targeted Support, because they are unable to comply with this requirement.

We support the FCA's underlying intention: to ensure that clients can consider how a firm's financial arrangements may impact the Targeted Support which the firm provides. We would argue that this should extend beyond a firm's financial arrangements, so that customers can understand any material limitations of a firm's Targeted Support service. The FCA has proposed an obligation (that we support) that firms must disclose any limitations on the recommendations they have given (i.e. that they have only considered their own products). This obligation will lead to a far more direct, meaningful and appropriate disclosure that can help customers understand that the firm will make money if the customer buys their product. This disclosure provides a much more direct, clear piece of information that a consumer can assess and determine their decision. This lets them know any limitations without having to understand the principle of cross-subsidisation.

In addition, the firm will also be subject to FCA rules on Conflicts of Interest. Targeted Support may give rise to new conflicts of interest, but these should be treated in the same way as all other potential or actual conflicts of interest.

Given this, we think the rules and guidance set out in COBS 9B.8 and COBS 9B.8A should be revised to remove any requirement on firms to disclose their remuneration structures where they do not charge for Targeted Support.

In addition, the current drafting in 9B.8A could be interpreted as preventing firms from providing Targeted Support. It holds that a firm cannot receive any other benefits in connection with their business of providing targeted support. Where a firm recommends one of their products, and the recipient of the Tarted Support buys that product, the firm will receive a benefit. The profits made from the sale is a benefit. The drafting needs to be amended to allow firms to recommend their own products in a ready-made solution, otherwise Targeted Support will not work.

Question 6: Do you agree with the proposed amendments to COBS 2.3 and COBS 2.3A? If not, please set out your reasons.

We agree that inducements should be banned. However, we think the FCA is conflating information that may be of interest to the FCA given its competition objective and the information needs of consumers. The FCA has controlled for the consumer harm and competition risk by ensuring that an associate can only pass on costs to another firm in the group. We do not understand why this control needs to be disclosed to a consumer. The FCA has controlled for the commercial, competition law point by ensuring that only costs can be passed on.

If the fact pattern were slightly different, for example the two group firms happened to be a single entity, but the single group has multiple costs centres within it, then the cost would simply be absorbed and not disclosed to clients. We do not understand the rationale for the different treatment. In line with our response to Question 5, we think the FCA's proposed approach is likely to cause confusion and distrust in Targeted Support, when presumably the FCA's intention is to increase trust. Given this, we recommend that the disclosure requirement is removed.

Question 7: Do you agree with the proposed amendments to COBS 6.1B, COBS 6.1C, COBS 6.1E, COBS 6.1F and COBS 6.4? If not, please set out your reasons.

We would welcome further clarification from the FCA on how these requirements apply to outsourcer/supplier arrangements providers. For example, how would the disclosure requirements apply to the following scenario: a TPR regulated pension trust enters into an arrangement with a FCA-authorised pension provider for the latter to provide Targeted Support to its members. What disclosure requirements would apply to the pension trust and what requirements would apply to the Targeted Support provider? Would the latter need to disclose their existence and how they are being remunerated? Would the supplier be able to make a profit from the provision of this service? We are concerned that the current proposed drafting may prohibit these arrangements as an external supplier will need to pass on more than reasonable costs in order to make the provision of the service feasible. Without this allowance, it is unlikely that pension scheme members of TPR regulated firms will benefit from Targeted Support.

Question 8: Do you agree with the proposed amendments to COBS 7? If not, please set out your reasons.

Yes.

Question 9: Do you agree with the proposed amendments to COBS 10? If not, please set out your reasons.

Yes.

Question 10: Do you agree with the proposed amendments to COBS 14? If not, please set out your reasons.

We think it should be made clear that disclosure requirements are not duplicative and that the FCA is not stipulating exactly when a disclosure must be made by a firm. The FCA rules should empower firms to design innovative, engaging customer journeys that increase consumer understanding and confidence. This is consistent with the FCA's outcomes-based approach to regulation and the Consumer Duty.

We also note that HMT's draft SI holds that a consumer does not receive financial advice, meaning they do not receive a "personal recommendation" when they receive Targeted Support. Targeted Support is an exemption to Article 53 of the RAO, meaning that a Targeted Support recommendation is not a personal recommendation as defined in Article 53(1C). HMT has specifically carved this out. We recommend that the FCA adopts an approach that is consistent with HMT's definition of providing Targeted Support. This recommendation extends beyond COBS 14, as there are a number of instances where the FCA is seeking to treat Targeted Support in the same way as financial advice. Targeted Support is a distinct regulated activity and should be treated as such.

Question 11: Do you agree with the proposed amendments to COBS 15? If not, please set out your reasons.

We think the FCA's proposals could benefit from additional clarifications.
It would be useful for the FCA to clarify that the cancellation pertains to the product that is purchased following a Targeted Support recommendation. This is distinct from any cancellation rights that arise in respect of the Targeted Support service itself. The FCA should determine whether any cancellation rights accrue where a Targeted Support provider charges for their Targeted Support service. We would expect the FCA to adopt the same approach as currently applies to the provision of advice (e.g. what cancellation rights apply where a customer receives financial advice that does not result in a recommendation to buy a product). We assume that no cancellation rights would accrue where a Targeted Support provider does not charge a fee for their Targeted Support service.

In order to make these provisions workable and ensure consistent implementation and application by firms, we think it is necessary for the FCA to define when a product sale can be considered a "targeted support sale". We appreciate that this may be straightforward in some instances, but is

unlikely to be so in all cases. For example, a customer may receive Targeted Support and then decide to act on the ready-made suggestion days, weeks or months later. In order for there to be clarity as to which cancellation rights are applicable, firms need to understand how they should classify the sale.

In addition, we think additional consideration and nuance should be given to Targeted Support nudges that are given in respect of existing products. For example, where Targeted Support is given in respect of pension contribution levels for an auto-enrolled pension. The pension will not have cancellation rights and presumably, the FCA does not intend to create cancellation rights simply because the member has received Targeted Support.

It would also be helpful for the FCA to clarify whether the delivery channel of Targeted Support impacts a consumer's cancellation rights. We note that COBS 15 distinguishes distance and non-distance contracts. We believe that this means a Targeted Support journey (or advice journey) that is given where the firm employee and customer are physically present in the same room, the customer has a shorter cancellation period. This distinction seems antiquated given the prevalence of digital or virtual journeys (for both Targeted Support and Advice). If an adviser provides their service over Zoom, their customer receives more rights than if they met in the same physical location. We would welcome the FCA reviewing these provisions more generally and providing a more consistent experience and rights for consumers.

More broadly, from a consumer protection perspective, it is not clear why an advised consumer receives better cancellation rights than an unadvised consumer when purchasing particular products. The current FCA rules penalise unadvised consumers. We think it is more likely that an advised consumer has made an informed, appropriate decision than unadvised consumers. For this reason, we agree with providing the greater cancellation rights to Targeted Support customers, but believe that all consumers should receive equal cancellation rights when they purchase specified products. Providing a consistent, uniform cancellation period for specific products would also remove the need for the FCA to define whether a sale should be treated as a "targeted support sale". For clarity, we are not calling for a general overhaul of the approach to cancellation rights that apply to all financial services products and services. Instead, where cancellation rights already exist in respect of specific products, we recommend that distinctions should not be made as to whether the sale was in person or via other delivery channels, or whether the sale was advised or unadvised.

Question 12: Do you agree with the proposed amendments to COBS 16? If not, please set out your reasons.

No, we do not agree. It is too early to mandate signposting clients to services that may not be available anywhere in the market at the time the communication is issued. The obligations will start to apply when the Authorisation Gateway opens. At this point, no firms will be offering Targeted Support, yet will be obliged to signpost customers to the service.

The current draft rules seem to require all firms that mention guidance and advice in existing pension-related communications to update all of these communications to ensure they also include mention of Targeted Support by the time the Authorisations Gateway opens. This is a very large undertaking and will be applicable to firms that do not, and will not, provide Targeted Support. We urge the FCA to carefully consider the scope and need for these requirements. Where firms do provide Targeted Support, they will be commercially incentivised to communicate this. They will be able to describe their service in a way that is accurate and relevant to customers.

We also note that firms may not refer to these services as "targeted support" but instead use other more engaging, less jargonistic terms. Thus, prescribing disclosures specifically use the Targeted Support label is highly unlikely to cause consumer confusion.

It is also unlikely that members of one pension scheme will be able to go and access free Targeted Support from other pension providers. The commercial model is likely to focus on firms supporting their own customers.

COBS 16.6.8R(2)(c), 19.4.6R, 19.4.9R and 19.4.16R should be removed and the topic should be re-visited once the market for Targeted Support has been established and availability of such services is sufficiently widespread to be a realistic option for consumers whose product provider does not offer Targeted Support. At this stage, mandating disclosures is likely to cause consumer frustration, confusion and incur unnecessary compliance costs.

Question 13: Do you agree with the two principles behind our proposed amendments to COBS 19? If not, please set out your reasons.

No we do not. Principle 1 extends to firms that do not provide Targeted Support and is unlikely to accurately represent the nature of Targeted Support offerings. The scenario envisioned in principle 1 may never arise if Targeted Support providers restrict the service to customers who hold their own products. Firms that provide Targeted Support will be naturally incentivised to signpost this to relevant customers. We do not see the need for firms to be obliged to provide this signposting. The current FCA position will oblige firms to tell customers about a service that may not be available to them. This is likely to cause confusion, distrust and complaints.

We do not agree with Principle 2, because we feel this is a missed opportunity for the FCA to provide some helpful, holistic guidance that clarifies how existing requirements sit alongside the Targeted Support regime. Adopting an overarching, outcomes focussed approach that leverages the Consumer Duty would be preferable. We also recommend that the FCA changes its approach to Targeted Support and Investment Pathways. When a customer has received Targeted Support on investment choices at retirement, there is no need for that customer to also receive investment pathways. Under the current rules, firms must only offer investment pathways to non-advised customers. Elsewhere within the consultation and the proposed rules and guidance, the FCA has aligned Targeted Support with Advice. Given this, we recommend that the FCA permits firms offering Targeted Support in relation to at retirement investment decisions, to decide whether to

provide Investment Pathways, or not. Firms would still be required to comply with the Consumer Duty and consumer understanding requirements, so they will need to ensure that key messages and information are provided to customers. However, Targeted Support presents a new, more engaging delivery vehicle that should be seen as an alternative, not additive, to Investment Pathways.

Question 14: Do you agree with the proposed amendments to COBS 19? If not, please set out your reasons and potential alternative approaches.

We do not agree with the amendments that flow from the first principle. There should be no obligation to point customers to services they may not be able to access. This is likely to cause confusion, distrust and complaints.
Please also see our response to question 13 for details of recommended amendments in respect of the second principle.

Question 15: Do you agree with our proposed amendments to ICOBS? If not, please set out your reasons.

We can understand the FCA's position, and the need for Targeted Support in its current form to embed. However, more generally, we think the FCA and HMT could consider expanding the scope of Targeted Support to include additional products in future. Ultimately, Targeted Support is designed to help people make better informed, supported decisions. We do not see a rationale for confining this to investment products.

Question 16: Do you agree with our proposal not to amend PDCOB 8? If not, please set out your reasons.

Yes, we agree that at this point in time, it is prudent to defer any potential changes to benefit from the insights and learnings gained from consumer testing of the MoneyHelper dashboard. We would note that as future iterations of Dashboards are rolled out and transactional capability becomes more likely, the inclusion of Targeted Support within PVS will need to be reviewed.

Question 17: Do you agree with the proposed amendments to PDCOB 12? If not, please set out your reasons.

Yes, we understand the rules relating to post-view services (PVS) restricts Targeted Support from being included with the PDS ecosystem. However, we are pleased to see that reference to off-platform support will be allowed within PVS. We would note that as future iterations of Dashboards are rolled out and transactional capability becomes more likely, the inclusion of Targeted Support within PVS will need to be reviewed.

Question 18: Do you agree with the proposed application of SUP 16 reports to targeted support? If not, please set out your reasons.

We can understand the FCA's position, given the difficulties in precisely defining whether a sale is a "targeted support sale". That said, we note that it seems anomalous to report Targeted Support sales as non-advised while referring to Targeted Support as a form of advice.

As outlined in our response to Question 11, we think it would be helpful for the FCA to define a "targeted support sale", because this will determine what cancellation rights are applicable. If the FCA is defining this term, it could consider adopting a distinct category for regulatory reporting purposes. This could make supervision and measurement of the impact of Targeted Support easier.

Question 19: Do you agree with the proposed application of the DISP 1 complaints report to targeted support? If not, please set out your reasons.

Please see our response to question 18.
It is critically important that the FOS does not deem Targeted Support to be the same as Advice. They are two distinct regulated activities, with two distinct scopes and requirements. It would be desirable for the FCA to lead by example, by treating Targeted Support related complaints as a distinct category.

Question 22: Do you see other potential problems with our proposed amendments to the Handbook as set out in Chapter 2 of this CP, or any omissions?

The approach the FCA is proposing to disclosure requirements needs to be amended. The overarching, guiding principle should be that firms can design engaging, innovative customer journeys that are not duplicative. We are trying to move away from standalone compliance and move towards innovative, engaging customers journeys that further the Consumer Duty. The FCA could provide greater clarification that duplication should be avoided.

We also recommend that the FCA changes its approach to Targeted Support and Investment Pathways. When a customer has received Targeted Support on investment choices at retirement, there is no need for that customer to also receive investment pathways. Under the current rules, firms must only offer investment pathways to non-advised customers. Elsewhere within the consultation and the proposed rules and guidance, the FCA has aligned Targeted Support with Advice. Given this, we recommend that the FCA permits firms offering Targeted Support in relation to at retirement investment decisions, to decide whether to provide Investment Pathways, or not. Firms would still be required to comply with the Consumer Duty and consumer understanding requirements, so they will need to ensure that key messages and information are provided to customers. However, Targeted Support presents a new, more engaging delivery vehicle that should be seen as an alternative, not additive, to Investment Pathways.

At present, the FCA has not provided any PROD rules or guidance. For example, does the FCA envision that a manufacturer of a fund needs to state that the product is suitable for distribution via

Targeted Support, or can the distribution make this decision alone? We would welcome clarity from the FCA on this point.

Question 23: Do you agree with the proposed approach not to introduce transitional provisions? If not, please set out your reasons.

If the FCA is minded to retain signposting disclosure requirements, then we strongly recommend that a significant transitional provision is created. The current requirements imply that Targeted Support will be a mass market solution covering multiple use cases from Day 1. They require firms to signpost customers to a service they may be unable to access. Ideally, these requirements would be revised given the natural incentive Targeted Support providers will have to promote this service. However, if FCA is determined to impose such requirements, we recommend that sufficient time is given to enable firms to implement and embed Targeted Support journeys across the product and service offerings, and their customer base before blanket disclosure requirements come into force.