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FINANCIAL CONDUCT AUTHORITY
CONSULTATION RESPONSE – CP14/11
RETIREMENT REFORMS AND THE GUIDANCE GUARANTEE

INTRODUCTION

TISA is a not-for-profit membership association operating within the financial services industry.

TISA's membership comprises over 145 member firms involved in the supply and distribution of savings and investment products and services. These members represent many different sectors of the financial services industry, including banks, stockbrokers, asset managers, insurance companies, fund managers, distributors, building societies, investment managers, third party administrators, consultants and advisers, software providers, financial advisers and pension providers.

What makes TISA unique is that its membership covers the entire industry, incorporating cross sector policy, industry and technical expertise. Whilst we maintain a solid partnership with government, the regulators and wider industry, we remain independent and develop neutral views and opinions. This impartiality is reflected in our ability to drive development projects, which improves industry performance and puts us in the unique position of being able to constantly challenge the status quo to bring about material improvement. At the forefront in all of our recommendations and actions is to consider national and consumer outcomes.

RESPONSE TO CONSULTATION

TISA welcomes the retirement reforms announced in the budget. We believe the instinct to trust people with their own money is a good one and are enthusiastic about working with all interested parties to ensure that the reforms work for customers, the industry and the wider national interest.

We recognise that the Guidance Guarantee is vital to the success of these reforms to ensure that customers are aware of the flexibility and greater options now available.

Although the implementation date of April 2015 is very challenging, it is, in our view with a sensible degree of pragmatism over what is possible from Day 1, achievable and we are very keen to play a full part in ensuring that this date is met.

Before responding to your specific consultation questions we would like to make the following points and observations:

- We would encourage that rather than referring to 'retirement' as being the event that triggers access to the guidance service, reference is made instead to 'when considering taking your money'. Today, retirement for many isn't the cliff-edge event it once was and many people now transition from full-time employment, into part-time employment, before finally 'retiring' in the traditional sense many years later – taking benefits from their various pensions in a phased approach over time. As such the concept of retirement is unfamiliar to many and will become increasingly so. Referring to 'when considering taking your money' will be better understood by customers and

also reinforces the Treasury's stated position that the guidance service is available on a per pot basis. (It's recognised that some caution is needed here to avoid confusion with state benefits.)

- Contractual annuitisation – we are concerned where some customers could be automatically annuitised at a certain age. Even if an annuity was the appropriate vehicle for their income needs the likelihood is that the shape of the annuity purchased for them (i.e. payment frequency, spouse's provision, escalation etc.) is not. We recommend that there must be a statutory override which allows firms to ignore the contractual annuitisation provision in their pension contracts and allows their customers to have freedom and choice in the selection of a suitable retirement income option. Compulsory annuitisation provisions are a legacy from the past and have no place in the modern pensions world. Furthermore, TISA believes that there would need to be some form of protection in place for any firm who chooses not to contractually annuitise a customer, so that the firm is not left exposed to the risk of complaint and potential redress payments where the annuity rate available at the contractual annuitisation date was better than that available at the time an annuity was ultimately purchased.
- There must be a slick hand-off between the guidance service and FCA regulated firms, ideally supported by the electronic transfer of data so that customers aren't inconvenienced and therefore lose engagement through having to provide information again that has previously been supplied. Furthermore FCA regulated firms must be able to rely upon the accuracy of the data supplied to them without repercussion in the event that it is subsequently established to be incorrect.
- We also believe that 'wake-up' packs issued at selected retirement dates should be replaced with a 'pensions passport' that contains the signpost towards the guidance service. This should be a single page showing the value of the pot, together with other important information such as any guarantees. It would act as the trigger for customers to access the service and to choose their preferred service provider.

RESPONSE TO QUESTIONS

Standards for the delivery partners (Chapter 2)

1. Do you have any comments on the proposed standards for the delivery partners?

In order for the service to work and to be trusted there must be consistency in the guidance delivered across all delivery partners. Essential to ensuring this is the quality of the input to the sessions, so the delivery partners must work together to agree a standard template of information to be gathered by the customer in advance of the session.

TISA would also like to see standard templates developed to capture the output from the session to be used by all delivery partners – this will help to ensure consistency, build and strengthen the brand image of the service as well as to assist any handoffs to FCA regulated firms where appropriate. Documentation is vital to effective

supervision and standard templates are key to strong record keeping and compliance monitoring. There will also be a need for consistent rules, guidelines, algorithms, etc. to ensure that the content of the guidance is consistent, i.e. that Mrs Brown in Newcastle receives the same guidance as Mr Jones in Truro.

Furthermore, we believe it is important that the delivery partner strikes the right balance between setting the scene as described, and not spending too long subjecting the customer to a long explanation of caveats, notices and warnings, otherwise their attention span will be compromised.

Levy to fund provision of the guidance (Chapter 3)

2. Do you agree with the proposed use of the FCA periodic fees framework to collect the retirement guidance levy? If no, please provide alternatives and set out how they would be implemented.

We remain to be convinced that the use of FCA periodic fees is the most appropriate or efficient way to fund the Guidance Guarantee levy and set out below an alternative to be considered.

We believe that the levy will eventually be paid for by customers as firms in the fee blocks will inevitably add the amounts raised to their costs of doing business.

We consider it anomalous that through the Retail Distribution Review the Regulator has sought to increase transparency and give consumers the opportunity to understand the cost (and presumably judge the value) of the services they can get in making financial decisions whilst these proposals would appear to reverse that principle.

We think it is more transparent to explicitly show customers that there is a cost to providing this Guidance and this is shared by those taking benefits from Pension Schemes. This is consistent with the way that Regulated Advice services are disclosed as having a specific charge. To pretend that firms benefiting from the new freedoms will in some way bear the cost is creating an unrealistic illusion with the levy proposals as they stand.

There are also many compromises to the current proposals which the consultation paper acknowledges, for example, the difficulty of deciding the split among the fee-blocks and the broad brush of the fee-block categories that will capture some firms not involved in the retirement business.

Our alternative suggestion is to make a small deduction from the capital value of all the monies crystallised to provide benefits to fund the Guidance Guarantee. HMRC can then collect the amounts through the Pension Scheme tax receipt processes already in existence with each registered approved scheme.

The basic calculations would suggest that a charge of 0.1% on the approximate £10bn of crystallised benefits each year from DC pension schemes would raise £10m

p.a. This would mean a consumer with a £50,000 pension pot would have £50 deducted.

This method would pass the test of being free at the point of use of the Guidance Service and use existing processes and infrastructure for collection avoiding any costly implementation issues. It would also be agnostic from the income choices consumers make as the amount would be deducted at point of crystallisation.

There will be details to resolve, such as predicting in advance the appropriate fee level to be deducted from crystallising pots, separating DB and DC monies at crystallisation, the inherent cross subsidisation from large pots to small pots and from those who don't avail themselves of the service to those that use it multiple times, however, we consider in the round these to be minor considerations when set against the avoidance of issues of lack of transparency and unfairness of allocation of levies among firms.

- 3. Do you agree that only firms in the proposed five retirement guidance fee-blocks (Table 3.1) should contribute to the retirement guidance levy? If no, please provide your reasons.**

See response to question 2.

- 4. Do you agree that firms in the remaining fee-blocks set out in Table 3.2 should not contribute to the retirement guidance levy? If no, please provide your reasons.**

See response to question 2.

- 5. Do you have any comments on the three options for allocating the overall levy across the five retirement guidance fee-blocks? If you do not agree with any of these options please advise us of your proposed alternative allocation options.**

See response to question 2.

FCA requirements for firms in light of the reforms (Chapter 4)

- 6. Do you agree with the proposed content of the signposting information? If not, please provide alternative suggestions.**

We agree with the content of the signposting information and would like to see a standard template in place from Day 1 to build confidence that the service (albeit supported by several delivery partners) is a consistent service. A standard template will help build brand awareness. It is important that signposting to the guidance service isn't limited to a single communication event and is reflected in other existing literature related to 'retirement'. TISA would like to work with you to develop this standard template.

- 7. Do you have any thoughts on the standardisation of this information for the future?**

See response to question 6.

8. Do you agree with the proposal to align the timing of the signpost with the existing timing requirements for wake-up packs?

Yes, for those looking to take their money at their 'selected retirement date' under their pension (not necessarily their actual retirement date as referred to in our response to question one), then aligning the timing of the signpost with the existing timing requirements for wake-up packs seems appropriate. It is also cost effective as it makes use of existing relevant communications to deliver the message. However, as referred to earlier we believe that a better solution would be to replace 'wake up packs' altogether with a 'pensions passport'.

TISA notes that firms will also be required to signpost their customers to the guidance if they contact the firm indicating they wish to access their pension fund (unless they have recently received a wake-up pack) - which we fully support. However, some customers who are considering taking benefits earlier than their 'selected retirement date' may choose not to indicate this to their pension provider at outset and would therefore be unaware of the service available to them. Standard letters could be sent to everyone from the age of 54 and/or a paragraph/flyer inserted into annual benefit statement/SMPI packs from age 54 to promote the guidance service at an early stage.

9. Do you agree with the proposal to introduce a transitional provision to ensure that those receiving wake-up packs before April 2015 do not miss out on being signposted to the guidance?

Yes, TISA fully supports this proposal to ensure that as many people as possible can take advantages of the new flexibilities.

10. Do you agree with the proposal to add this guidance?

Yes, we agree with the proposal to add guidance to prevent providers from innocently or actively not adhering to the spirit of the Guidance Guarantee.

11. Do you agree with the proposal that firms should refer to the availability of the guidance whenever they are communicating with a customer about retirement options?

Yes, in order to build customer awareness and increase the profile and brand, it is essential that any interaction between customers and firms about retirement options makes reference to the availability of the guidance.

12. Do you agree with our proposal to clarify the information provision requirement and add guidance on information that should be included?

Yes.

13 Do you have any comments on whether further requirements should be placed on provider behaviour and communications?

We feel that the requirement on firms to act in the best interests of customers (COBS 2.1.1R), the principle to treat customers fairly and the guidance described in section 4.15 of the consultation paper is sufficient at the present time.

14 Do you agree with the proposal to remove the reference to maximum withdrawals and require a general statement about sustainability of income and to add to the guidance that the suitability letter should include a description of the potential tax implications?

Yes.

15 Do you agree with our proposal to remove the reference to maximum withdrawals in COBS 13 Annex 2 2.9R?

Yes.

16 Do you agree that there do not need to be any changes to the Key Features contents rules? If you disagree, please explain why?

Yes, at this moment in time, however TISA would encourage the FCA to consider the effectiveness of these rules as part of its consultation later in the year on product disclosure rules.

17 Do you agree that the projection of an annual income in retirement and a projection of the total fund is still useful and therefore this rule should not be amended?

We agree that in order for customers to understand the product they are buying and to plan for their 'retirement', they need a way to understand what their total fund is likely to be at 'retirement' and the income that could generate. However, unfortunately projections are largely ignored by the adviser community and customers alike as being meaningless (they're based upon too many assumptions) so at present they're not really meeting the objective. However in the absence of anything else we believe that the rule should not be amended at the present time (it's better than nothing) and that separately there should be a piece of work undertaken to look at other ways to better meet this need – perhaps as part of FCA's consultation later in the year on 'removing certain product disclosure rules that are not considered to be useful for customers and do not necessarily promote competition in the interests of customers'. It would be good if this work could run in parallel to the DWPs own work to propose changes to annual pension statements and SMPs.

18 Do you agree with the proposal to add a requirement for providers to provide their customers with a description of the possible tax implications when they are applying to access some or all of their pension fund using any of the options available?

Yes, this is essential in order that customers make informed decisions. It must be made very clear that these are only potential tax implications and that the specific implications will be determined by their own individual circumstances.

This should also be extended to cover the possible tax implications on death from the different environments. For instance, uncrystallised benefits can be paid tax free, while crystallised benefits will be taxed on death. This is particularly important where schemes allow tranches of fund to be drawn down from an uncrystallised arrangement – from a member’s perspective there is very little difference between that arrangement and full drawdown which would result in benefits being crystallised and thereby resulting in a tax charge on death.

We would like to see paragraph 4.46 clarified. The consultation paper suggests that firms “may wish to consider whether it is appropriate to query” a customer’s decision. This leaves the door open to interpretation and possible future litigation if the firm does not query a decision which is subsequently proved to be detrimental to the customer. We believe this area needs strong clarification, or a full abdication of responsibility by the providers and trustees provided the customer has been furnished with all appropriate information and signposted in line with the legislation.

Cost benefit analysis (Annex 1)

19 What are your views on the approach taken on costs and benefits?

We believe that the benefits to customers of having freedom and choice is a price worth paying.

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