TISA Response to:

CP18/17 - Retirement Outcomes Review: Proposed changes to our rules and guidance (Q1-33 and 47-49)

Author:

Renny Biggins
Retirement Policy Manager
renny.biggins@tisa.uk.com
07802 324962

About TISA

TISA is a unique, consumer focused membership organisation. Our aim is to improve the financial wellbeing of UK consumers by aligning the interests of people, the financial services industry and the UK economy. We achieve this by delivering innovative, evidence-based proposals to government, policy makers and regulators; the proposals provide practical solutions to major consumer issues.

TISA's growing membership comprises over 190 firms involved in the supply and distribution of savings and investment products and services. These members represent all sectors of the financial services industry, including the UK's major investment managers, retail banks, insurance companies, pension providers, distributors, building societies, wealth managers, third party administrators, FinTech, consultants and advisers, software providers, financial advisers, pension providers, banks and stockbrokers.

TISA's current strategic policy and industry solution developments include:

- **Guidance**: developing a framework to make guidance more widely available to the estimated 42 million UK citizens who will rely on it when making financial decisions
- **Digital ID:** development of a digital identity for consumers of financial services: following successful earlier feasibility work, a project with members has now been established to develop and test a pilot of the Digital ID.
- **Digitalisation**: building on the successful launch of TeX, TISA has initiated a range of member projects developing open standards that support the growth of FinTech and increase consumer access to financial services, while lowering costs for providers.
- **Financial education**: helping to make young people aware of the impact of finance on their life including the KickStart Money project – a £1million three-year programme delivering financial education to 18,000 primary school children.
- **Retirement saving**: strategic policy focused on the needs of millennials and the self-employed and the use of property to supplement retirement income.
- **ISAs**: working with government, the simplification/improvement of this key savings regime
- **The TISA and KPMG Savings Index:** a biannual measure of typical household savings and debt in Great Britain.
- **Consumer engagement:** alongside our financial education and guidance work, we are also considering how the industry can improve how they identify and interact with vulnerable customers, and encourage greater financial capability for UK consumers.

TISA also provides support on a range of operational and technical issues targeted at improving processes, standards of good practice and open standards, alongside the interpretation and implementation of new rules and regulations, including MiFID II (through publication of good practice guides and open standards, and an industry solution to the collection of target market data and costs & charges); Client Assets (publishing good practice guides and working on unbreakable term deposits; tackling financial crime, data standards, SM&CR and GDPR; and Brexit, by developing proposals for government that will enable the savings and investments sector to prosper on a global scale to the benefit of UK plc.

Our work to improve industry infrastructure includes TeX, (an industry utility providing the legal framework and governance necessary for the use of electronic messages facilitating transfers) alongside support for the Transfers & Re-registration Industry Group (TRIG) and support for the UK Fund Trading and Settlement initiative (FTS).

Summary

TISA welcomes the opportunity to provide a response to the Financial Conduct Authority's CP18/17, where changes to rules and guidance are proposed with a view to enhancing retirement outcomes for consumers.

We broadly support these proposals and believe they will help create better outcomes for many who enter into retirement with their accrued pension funds on a non-advised basis.

More generally, the Retirement Outcomes Review has been wide ranging but largely seems tactical in nature, focusing on a number of specific areas where concerns have been raised or particular trends have emerged since the introduction of pension freedoms in 2015.

The pension freedoms, whilst seen as a positive move by much of the industry including TISA, has created a myriad of choice for consumers who are approaching retirement. While it is important for firms to have processes in place which provide an element of protection to those who are disengaged and/or non-advised, the proposals contained within the consultation can only go so far and consumers remain exposed to various risks.

We understand the importance of establishing a balance where options are kept broadly at a high level and simple, to aid both understanding and engagement versus providing a more comprehensive set of choices which may have the opposite effect. And of course, there are also implementation practicalities to consider for pension schemes and administrators.

The pensions landscape has changed significantly since 2015 and in order for consumers to make the most of their retirement opportunities (both in accumulation and decumulation), it is essential that a strategic support framework is put in place to get advice or help in making informed financial decisions. While the option to seek regulated advice is available, this can be expensive and we need to develop an infrastructure which supports the mass market and not just the wealthy.

TISA and its members are seeking to address this financial guidance gap and are looking to work with government and the regulators to build a comprehensive guidance framework that enables regulated financial services firms to provide personalised financial guidance. Ideally, consumers can access similar financial guidance from both regulated financial service providers and the Single Financial Guidance Body. Leveraging the experience, technology and client relationships that regulated financial services firms have with consumers enables the provision of guidance at scale, which can promote engagement and provide knowledge right through the pension journey and not just when approaching retirement, where typically it is too late to make changes which have any significant impact.

Achieving this goal requires greater definition and flexibility in the current rules around guidance, a framework of scope and standards to ensure appropriate guidance and co-operation with the SFGB to ensure consistency across the guidance services so that consumers have broadly the same experience, terminology and outcomes regardless of going to industry or the SFGB. This will provide much greater access to consumers across their whole financial management life journey as well as at the point that they need to make decisions related to this consultation.

Consultation questions and response

Protecting Consumers from Poor Outcomes

Question 1

Do you agree with our current high-level thinking on the key elements of our potential remedy? If not, what would you suggest?

Yes, we are broadly in agreement with your high-level proposal relating to the creation of structured investment pathways, which have a clear and unambiguous prescribed objective.

Question 2

Does the approach we are considering taking adequately capture the objectives of non-advised consumers entering drawdown who might use the investment pathways? If not, what would you suggest?

The three objectives proposed do capture the income options which are available to consumers when they are in drawdown at a high-level. However, it is essential that the aims, objectives and limitations of each pathway is clearly communicated – otherwise it could have a detrimental effect. A consumer opting for an 'Income in Retirement' pathway may otherwise believe that this enables them to withdraw income without fear of ever exhausting their pot.

Discussions about a switch of product (e.g. to an annuity) should take place at a different level and doesn't require the creation of an investment pathway designed to trigger this action. However, the annual communication to consumers could include some wording designed to prompt thinking around whether the product as well as investment choice is still appropriate to meet their needs.

Question 3

Do you agree with our suggestion that firms should only offer 1 investment solution in respect of each of the objectives? If not, what would you suggest?

No, we believe that the number of pathways should not be restricted to a single solution per objective. This does not align to the number of variables that Drawdown provides and also does not reflect the varying investment options and expertise that different firms can offer.

Whilst a minimum of 1 investment solution per objective should be a minimum, firms should be able to design multiple solutions under the umbrella of the main objective to allow consumers to select a solution more aligned to their circumstance and risk profile.

It is important that we do retain the 3-objective standard in order to retain an element of simplicity. However, where for instance income is required, a firm may wish to offer several solutions under the 'Income in Retirement' pathway to cater for different income requirements and risk profiles. Firms will be responsible for ensuring the main pathways and underlying options are communicated in a way which is transparent and easy to understand.

Question 4

Do you agree with our suggestion that firms should not be permitted to provide a single investment solution to cover all of the objectives? If not, what would you suggest?

Yes, we do agree that a single investment option would not be appropriate to meet all of the objectives. There should be a minimum of one investment option per objective.

Question 5

Do you think that firms should offer investment solutions for all the investment pathways? If not, what would you suggest? If a firm does not offer an investment solution for a particular investment pathway, should it be required to enter into an arrangement with another firm to provide it?

Where a firm has an obligation to provide investment pathways, the obligation should be extended to ensure that they provide at least one solution for all pathways which have been agreed as an industry standard.

Question 6

Do you agree with the approach we are considering taking on prescription around the investment solution and risk profile of investment pathways? If not, what would you suggest?

Yes, we agree that firms should be able to develop their own solutions to meet the objectives of investment pathways without restriction.

Question 7

Do you agree with the approach we are considering taking on permitting firms to use pre-existing investment solutions to offer an investment pathway? If not, what would you suggest?

Yes, we acknowledge that some firms will already offer a range of investment options which could be appropriate to meet the objectives of standard investment pathways. There should not be a restriction in allowing existing funds which meet this objective to be used as a pathway solution.

Question 8

Do you agree with the approach we are considering taking on allowing firms to offer investment solutions other than investment pathways? If not, what would you suggest?

Yes, we do not believe that non-advised consumers should be restricted only to solutions available under investment pathways. Some with investment knowledge will want to self-select and at the other end of the scale, you cannot force someone to choose an investment solution, so the option of a standard default should exist for all new funds entering drawdown. We do not envisage that this scenario would arise very often, given the process that should be followed as outlined later in this consultation.

Question 9

Do you agree with the approach we are considering taking for the choice architecture to be implemented by firms? If not, what would you suggest?

Yes, we agree with the process outlined, however as mentioned earlier, it is essential that the consumer is made fully aware of the pathway objectives and its limitations, especially in regard to income withdrawal. We would not like to see investment pathways being listed as a symptom for pension pots not performing in the way a consumer expected – particularly if it results in a trend for pots being extinguished earlier than expected due to a misconception that the pathway delivers a drawdown income for life irrespective of the withdrawal rate.

Question 10

Do you agree that investment pathways should also be made available to advised consumers? If not, what would you suggest?

We acknowledge that the main driver behind investment pathways is to provide some support to non-advised consumers with their investment options in drawdown. However, we do not see any reason why investment pathways should be restricted to non-advised consumers. Where a firm operates drawdown on an advised basis only, or the book is a mixture of advised and non-advised, it should be up to the firms' discretion whether to offer pathways to their advised book of drawdown business. However, the choice architecture process would need to be altered to reflect that they are advised.

Question 11

Do you agree with the approach we are considering taking on how we should define advised consumers for the purposes of the application of our rules on investment pathways? If not, what would you suggest?

Yes, we agree that if the drawdown investment strategy is selected through a regulated advice process, this meets the criteria for being advised. Advice relating to anything else should not be considered relevant for investment pathway purposes.

Question 12

Do you agree with the approach we are considering taking in relation to circumstances where consumers are designating funds to drawdown on multiple occasions? If not, what would you suggest?

We agree that the process should be triggered on every occasion that funds are designated to drawdown. As there may already be unused funds in drawdown, part of the process will need to include checking whether the investment choice relates just to the amount designated or should apply to all funds held in drawdown – these may be held in a single or separate arrangements depending on the provider drawdown process.

We note that it may not be appropriate for this process to be triggered for every designation where these form part of an overarching phased drawdown strategy as funds maybe crystallised on a frequent basis to meet a target income. However, as the main purpose for this proposal applies to non-advised consumers, we do not believe there will be many who are sophisticated enough to develop an income strategy of this nature at present. Should consumer engagement and knowledge improve in the future, as we hope through various initiatives, it may be appropriate to revisit the triggers at that time and also consider whether investment pathways should also be extended to funds in accumulation to cater for this scenario.

Question 13

Do you agree with the approach we are considering taking to require firm review of investment pathways on an annual basis? If not, what would you suggest?

Yes, due to the volatile nature of investments, investment pathway solutions should be reviewed annually to ensure they are still achieving their underlying objectives. If not, it largely detracts from the entire proposal.

Question 14

Do you agree with the approach we are considering taking for ongoing disclosure to consumers about investment pathways? If not, what would you suggest?

Yes, this is linked to Q13 in that investment pathways should be reviewed by both providers and consumers to ensure they remain appropriate and meet the desired objectives. Including some wording to prompt consideration as to whether the drawdown product remains suitable is also welcome as at some point, an alternative income product will become more appropriate for many.

Question 15

Do you agree that we should apply our remedies to the whole of the non-advised drawdown market, including SIPP operators serving this market? What would be the costs and how would the market respond?

Yes, where a SIPP operator offers drawdown on a non-advised basis, then this proposal should apply as consumers remain open to decumulation investment risks irrespective of whether they are in drawdown within a SIPP wrapper or an alternative product. We do not have any comment on the cost aspect.

Question 16

Do you think we should consider carving out from our remedies those SIPP operators focused on advised consumers and sophisticated investors? If so, how do you think we should do this? Should we consider an alternative proportionate solution?

Where a SIPP operator focuses solely on advised consumers, it does not seem appropriate to impose the investment pathway solution on the firm, although they should not be restricted from offering it should they choose. However, if there are any clients within their book of business who become non-advised e.g. orphaned clients, they should not slip through the net and the firm should either offer the minimum 3 investment pathways or refer them to the open market at the point the individual is identified as an orphan.

It is straightforward to identify an advised client as the business should be remitted via the regulated adviser. However, it is a lot more difficult to assess whether a consumer should be classed as a sophisticated investor. What exactly does this mean – there is no benchmark? Furthermore, even if a benchmark was established, individual circumstances change over time and just because you are classed as a sophisticated investor at a snap shot in time, there is no guarantee that this level of expertise is retained. Unfortunately, everyone has the potential to become a vulnerable client throughout life for various reasons and these instances may increase during retirement. It therefore does not seem appropriate to apply an exemption to investors who have been classed as sophisticated at some point and it also places a large responsibility on the providers who need the skills and expertise to make those judgement calls at each crystallisation event.

Question 17

Do you think that we should limit the scope of application of our rules on the investment pathways? What would be the impact on the SIPP market if we don't limit the scope?

We believe it is appropriate to limit the scope of application but only where a firm offers drawdown to advised clients only. Consumers may consider themselves to be sophisticated but this is often not the case, so any form of self-certification is not appropriate as an exemption.

Question 18

What would be the costs and challenges of the different options set out? Are some more likely than others to distort the market? Are there ways to mitigate the impact of this?

No comment

Question 19

Would SIPP operators be able to demonstrate that their consumers are advised and/or sophisticated/high net worth investors?

See response for Q16

Question 20

How might an appropriateness test work in practice?

Any form of appropriateness test would need to change as markets change. Investment advisers need to keep track of markets on a daily basis so any test would need to be reviewed regularly to ensure it remains current. Furthermore, there is no guarantee that once passing a test of this nature, a consumer continues to review their investments or retains the knowledge they demonstrated at that snap shot in time. It seems appropriate that they therefore follow the choice architecture process and then have the option to self-select should they choose.

Question 21

Should we not apply the remedy to non-advised consumers who have self-selected an investment strategy even though these consumers might benefit?

There is no reason why you would not apply this to non-advised consumers who have previously self-selected. They still remain exposed potentially to the same investment related risks that other non-advised consumers do.

Question 22

Should we instead not require firms with small numbers of non-advised consumers to offer investment solutions for any of the investment pathways, but require them to refer consumers directly to another provider for investment pathways?

Rather than focus on 'small numbers' we believe this is dependent on their rules relating to drawdown. As mentioned earlier, if a firm operates on an advised basis only however once in drawdown, small numbers become orphaned from their adviser, they should either find another adviser or go through the investment pathway process. In this instance we do not believe firms such as these should have to offer investment pathways. However, they should be referred to the open market to go through the investment pathway process.

Where a firm offers drawdown on an advised and non-advised basis, then they should comply with this process and offer at least one investment pathway solution for each objective.

Question 23

Do you agree that the IGC regime should be extended to investment pathways? If not, what alternative regime would you propose?

Whilst we agree with the sentiment that investment pathways need to be effectively governed, we do need to look at existing roles and responsibilities for both IGCs and provider boards as we do not want a duplication of responsibilities and effort, which could hamper effective governance. We do need to ensure that investment pathways are well governed, meet their objectives and offer value for money. We believe there is no immediate need to extend the remit of IGCs, however this is an area which should be kept under review.

Question 24

Do you consider that a requirement for independent oversight should apply to other decumulation products (ie not only to investment pathways)? If so, why?

No, we not believe that there is any evidence to suggest that an additional layer of oversight should apply to other decumulation products. As mentioned above, this area should be kept under review to ensure RPPD is operating as expected.

Question 25

Do you think we should carve out from the requirement those providers which only provide decumulation products for advised consumers, or those in less need of protection? How would this work?

As previously stated, we do not believe there is an immediate need to extend the remit of IGCs and this area should be kept under review.

Question 26

Do you have any other issues or concerns about the proposals?

No, nothing else to add about these proposals

Question 27

Do you agree with our current thinking that a single, default investment pathway is unlikely to be suitable in drawdown? If not, please provide reasons why you disagree.

Yes, as per Q4 we do agree that a single investment option would not be appropriate to meet all of the objectives. There should be a minimum of one investment option per objective.

Question 28

Do you agree with the approach we are considering taking to require making investment wholly or predominantly in cash an active choice? If not, what would you suggest?

Yes, given that cash is an unsuitable investment option for many and the perceived image of it being safe without consideration of the potential benefits of growth in alternative investment options and inflation, this does need be an active decision and not an outcome caused through a lack of engagement.

Question 29

Do you agree with the approach we are considering taking in relation to mandating warnings to those making an active choice to invest in cash? If not, what would you suggest?

Yes, this provides some transparency and may offset their reason for choosing cash because it is a 'safe' investment.

Question 30

If relevant to you, what have you done – or what do you plan to do – about your current drawdown consumers who have already been 'defaulted' into cash until now, but who are unlikely to be best served by this investment strategy for the remainder of their retirement?

It seems appropriate that firms do have the option to contact drawdown clients who are currently invested in cash. Many firms may currently wish to do so but some of our members believe this may be construed as advice under COBS. An approach in which firms can contact consumers to broach this subject confident in the knowledge that they are not breaking COBS rules should be clarified.

Question 31

Do you think that we should require firms to issue warnings to consumers who are invested in cash on an ongoing basis? If not, what would you suggest?

Yes, in the same way that consumers are reminded of the investment pathway they have selected and to consider whether it is still a suitable investment choice, the same principle applies to cash.

Question 32

Do you agree with the approach we are considering taking in relation to a minimum limit and the cooling-off period? What minimal limit would you suggest? If you do not agree with the approach we are considering taking, what would you suggest?

We do agree with the principle around cooling-off periods and this seems sensible. However, we do not agree that a minimum limit should be introduced. A pot of £30,000 or thereabouts may be a consumer's only pension and this will be considered a lot of money to some. To introduce an arbitrary figure where a fund £1 under results in a reduced level of service and an element of protection to a fund which is £1 over seems to contradict the spirit of the proposal. In addition, fund values change and a fund close to the proposed £30,000 limit could be under one day and over the next.

And finally, it introduces an additional layer of complexity to the administration process, so for all the reasons mentioned, there should be no minimum limit whatsoever.

Question 33

What impact do you think our proposals on preventing 'defaulting' into cash would have on the business models of SIPP operators? Do you think this change would be appropriate?

The prevention of defaulting into cash is appropriate for all types of pensions, whether they are a Personal Pension, Master Trust or SIPP. The underlying consumer is still exposed to the same risks irrespective of the pension product they are a member of. We do not believe it would have significant impact on the business models of SIPP operators.

This consideration should also be extended to other investment products as cash is often the investment of choice due to it being regarded as safe, whilst other factors such as investment growth and inflation are not factored in to the decision.

Questions 47-49

Do you agree that consumers should receive information on actual charges paid expressed as a cash amount?

How do you consider this would best be achieved by firms?

What would you estimate to be the cost of these changes?

We agree with the principle of a consumers receiving information on the charges that have been levied on their fund in the previous year in a pounds and pence format. The nature of some charges maybe difficult to determine, particularly where these relate to funds such as transaction costs. We would therefore suggest that the range of costs an investor is potentially exposed to in the various drawdown arrangements available are fully collated initially in order to establish the complexity involved in deriving the individual cost per consumer for each. This would then allow you to apply an appropriate timeframe in which providers can make the necessary system changes to comply with the end requirement.