Response to Consultation Paper 22/24:

Broadening access to financial advice for mainstream investments

https://www.fca.org.uk/publication/consultation/cp22-24.pdf

From Transparency Task Force, in an organisational capacity
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For publication
Date of submission February 28th 2023

About the Transparency Task Force ('TTF')

- TTF is a certified social enterprise, established in 2015, whose mission is 'to promote the ongoing reform of the financial sector so that it serves society better'.

- We have more than 6,000 members and supporters in 21 countries, some 80 percent of them in the UK. They range from consumers who've been mistreated by the financial services sector to whistleblowers, industry professionals intent on raising standards and other relevant stakeholders such as academics and journalists.

- We are funded through voluntary membership fees and individual donations; we are not in receipt of funding from firms from the sector, nor from charities and foundations resourced by it.

Overall input

We have taken the decision to provide an overall response to the consultation, instead of answering the 35 questions posed therein. We do so because we believe that the exercise, while perhaps well intentioned, is fundamentally ill-conceived. We therefore wish to challenge its underlying assumptions in a constructive but unambivalent manner, without getting sidetracked by the details.

The underlying premises are that:

- The FCA's 2022 Financial Lives survey ('FLS') shows there are some 4.2m UK adults who hold £10,000 of investable assets *mostly* or wholly in cash, despite having *some* appetite to take investment risk (our italics);
- It would be beneficial for some of them to reduce their cash holdings below £10,000 - the FCA's explicit target is a reduction of 20% (some 800,000 consumers) by 2025;
- The appropriate vehicle for them is likely to be a Stocks and Shares Individual Savings Account ('S&S ISA') containing mainstream investments (listed equities, including collective investment vehicles such as unit and investment trusts);
- Receiving lower-cost advice would encourage more of them to make this desirable switch, without exposing them to material risks or negative externalities

Presented thus, we would hope that anyone with responsibility for consumer investments at the FCA would recognise that there are a number of very obvious flaws in the above reasoning, to the extent that a Certified Financial Planner or Independent Financial Adviser advising a client accordingly could be at significant risk of enforcement action. A non-exhaustive list of concerns might include:

- <u>How much 'cash buffer' does this client have, and what do they need?</u> If the client has only £10k in cash (perhaps less), it is unlikely to be appropriate to introduce the possibility of investing into any asset class in which there is volatility of market price or even the slightest risk of a lack of liquidity *unless* they have no or negligible exposure to risk of unanticipated liabilities (for example, a homeowner might have to conduct emergency repairs to their property, a private-sector tenant might need to move at short notice, a car-dependent commuter might be faced with an unexpected repair bill, anyone responsible for living costs should be alert to the possibility that they might increase) *and* they enjoy a very high security of income (for instance, a defined benefit pension from a public sector employer, or a highly solvent private one);
- <u>What debts does the client have?</u> The client may have expensive debt, or be at risk of incurring it. If so, they might be better advised to use the investable cash to pay down existing liabilities, or avoid incurring new ones;
- <u>Would a pension contribution be a better option?</u> Even if the client does have genuinely surplus cash after providing a suitable buffer for contingencies and paying

down (or not incurring) expensive debt, it may be better for them to contribute that money to a pension, depending on factors such as their age and health, their marginal tax rate, whether they've used this year's allowance, whether their contribution might be matched by their employer and whether they've protected their Lifetime Allowance or are at risk of breaching it;

- How about a Lifetime ISA? If the client is eligible for one, this might be a more tax-efficient option than a conventional S&S ISA;
- How old are they, and how's their health? Equity investment should be viewed as a commitment of capital for a decade or longer. If a person is very elderly or in poor health, it is possible that they might reasonably expect to need to access savings, for example for care fees, within a shorter time frame, during which it is possible that the market value might have fallen materially. For such clients, a S&S ISA might not be appropriate

We accept that the consultation proposes that some form of fact-find should be undertaken by the adviser prior to recommending a S&S ISA. But if the adviser is prohibited from recommending anything other than that one product, it is hard to see what value would be delivered to the client in any scenario other than the placing of a cash subscription into such an account. And given that (we assume) contingent charging will not be permitted, it is possible that the client could find themselves paying for advice which would either recommend doing nothing (because the adviser would be prohibited from recommending the optimum course of action) or taking out a S&S ISA, which could well be bad advice (but the adviser either knows so little that they don't recognise this, or they don't want to put the client in a net negative position by charging for advice to do nothing).

This consultation reminds us of the old saying, 'When the only tool you have is a hammer, every problem looks like a nail.' The risk in creating a class of adviser who can only recommend S&S ISAs is that there will be a lot of mis-selling of that category of product, and a lot of customers charged fees but advised not to purchase anything.

A related problem is that it is difficult to provide a face-to-face advice team, backed up by professional indemnity insurance and continuing professional development, in return for *de minimis* fees. Which leads us to question who might do it - and why? It is possible that the big ISA providers will go down this route, perhaps over Zoom, in the hope of getting the recurring fees for platform usage. If so, that could be an anti-competitive measure, because consumers may feel deterred (or could even be restricted) from transferring out to other firms. Some high-cost 'wealth managers', such as St. James' Place plc, might do it as a loss-leader, hoping aggressively to upsell qualifying clients into more expensive products. In effect, clients would be suckered in by the cheap initial offer than moved up the value chain, from the firm's perspective, resulting in them buying expensive services without realising how uncompetitive they are, and perhaps getting themselves locked in by costly exit fees.

Finally, there must also be a risk - perhaps a sizable one - that some firms, including appointed representatives and 'introducers' of the sort associated with past scams such as Dolphin Trust and the British Steel Pension Scheme transfer scandal, will see these low-cost ISA advice mandates as a tempting, officially-endorsed gateway product through which they can establish relationships with new, financially naive first-time investors, whom they can then sell unregulated products, including outright scams. While we recognise that such products are ineligible for a S&S ISA, Non-Transferable Debt Securities such as those marketed by London Capital & Finance plc and Blackmore Bond plc *have* been marketed within both conventional and Innovative Finance ISA wrappers in the past. It is unlikely that a consumer requiring advice before investing £10k into an ISA would recognise the inappropriateness of including Non-Transferable Debt Securities or other non-mainstream products in an ISA when HMRC failed to do so, let alone be able to identify the switch-and-bait involved in putting them into IFISAs.

Conclusion

We recognise that there is such a thing as reckless prudence, that there are some consumers who keep needlessly large amounts of their net worth in cash, suffering erosion by inflation, when other strategies might be more appropriate.

We believe that the FCA's principal course of action for mitigating this problem should be to focus relentlessly on reducing the prevalence of bad outcomes in consumer investments (ranging from negligence/recklessness cases such as Woodford to outright appropriation of assets such as LCF, Connaught, Blackmore Bond, Collateral and many more); its secondary approach should be to work with consumer representatives and Parliamentarians to improve the redress outcomes when things go wrong (these could include improving the quality and speed of Financial Ombudsman determinations, extending FSCS protections, creating a civilly actionable duty of care to be owed to consumers by authorised persons and introducing routes by which consumers can secure compensation for regulatory failure from the FCA).

It is only by the industry and its regulator rebuilding consumer confidence that the problem of reckless prudence can be resolved. Achieving that goal would result in an increase in business for the honest majority of firms in the asset management and platform provision sectors. It would also result in a sizable inflow of capital into listed investments, which would grow the productive economy.

In contrast, the proposal to create a limited class of financial advice with a single predetermined outcome and a high probability of 'mis-selling' and worse, is in our view a counterproductive measure. Even if well-intentioned, it could actually harm the industry, and the consumers, it claims to want to help. It should go no further.

Enquiries

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