By email: DP23-5@fca.org.uk

28 February 2024

Dear HMT and FCA Teams

Barclays' response to the Discussion Paper on the Advice Guidance Boundary Review – proposals for closing the advice gap

Barclays' vision is to be the UK-centred leader in global finance. We are a diversified bank with comprehensive UK consumer, corporate and wealth and private banking franchises, a leading investment bank and a strong, specialist US consumer bank. Through these five divisions, we are working together for a better financial future for our customers, clients and communities.

With over 330 years of history and expertise in banking, Barclays operates in over 40 countries and employs approximately 85,000 people. Barclays moves, lends, invests and protects money for customers and clients worldwide.

Closing the advice gap and consumer demand

Barclays welcomes the Review. We recognise that the proposals within are aimed at closing the advice gap, which is one element of the broader public policy issue of making UK savers into better investors. Supporting consumers to be better investors is a means to improving households' longer-term financial security and resilience. This in turn could reduce the pressure on public finances to support short term unemployment and longer term public pensions needs[1].

Ultimately, this would make the UK economy more competitive and enable higher growth. To achieve this, we need to instil a culture of investing in UK consumers. Shifting mindsets will require concerted effort by government, regulator, consumer groups and industry. We believe that holistic financial guidance and advice can improve financial capability and change culture, if consumers are convinced of the need to seek help. HMT should use the opportunities that the ISA regime and measures to increase retail investing in stocks and shares presents to consider how government could stimulate consumer demand for advice/guidance.

Similarly, the FCA in its forthcoming consultation on the future of retail disclosures and further work on implementation of the Sustainability Disclosure Requirements should put consumer behaviour at the heart of its proposals, so that the regulatory regime enables retail investors to take action rather than discouraging them from doing so.

The role of holistic advice/guidance

At Barclays, we want to support customers holistically across our retail and wealth management propositions to enable them to achieve their financial objectives (in line with the Consumer Duty). We see that advice/guidance can play a critical role in customers' overall financial wellbeing, however firms have been constrained since the Retail Distribution Review. While this Discussion Paper is limited to the advice gap relating to retail investments, HMT and FCA should consider how customers behave and recognise that they do not make financial decisions in isolation.

[1] DWP analysis finds that 39 per cent of individuals aged 22 to the State Pension age (equivalent to 13 million people) were under saving for retirement when measured against target replacement rates, after housing costs, in 2023. https://www.resolutionfoundation.org/app/uploads/2024/02/Precautionary-tales.pdf

For the majority of the retail customer base, the single biggest asset is the home, and investments are almost solely held in a workplace pension[2]. Decisions on purchasing or investing in both of these assets are commonly guided by regulated advice. However, there is then often little by way of advice when it comes to converting these assets into an income stream. To successfully close the advice gap, HMT and the FCA should therefore consider the interaction and relationship between the home (buying, upgrading, smoothing borrowing, releasing equity, downsizing, bequeathing), the workplace pension, insurance, and investments. In high-wealth households, business is a significant asset type, and this adds an additional layer of complexity to customer financial decision making. In many cases, financial decisions are not made individually, but as a household.

HMT and the FCA should consider customers' complex and diverse needs against the patchwork of financial guidance/advice as a starting point. Therefore, the regulatory approach needs to be sufficiently flexible to allow firms to respond to the behaviours that customers exhibit rather than from a product-by-product perspective. Currently, by limiting the scope to specific product decisions a customer might take (e.g., pensions, use of cash, high risk investments), the proposals do not invite us to respond holistically to mass market needs as much as we would like to.

This review is a good first step to closing the advice gap for some. However, we are keen to work with government, regulator and industry to consider what more could be done to fully support mass market customers. We see a clear role for Targeted Support to improve investment decisions, and also support broader savings and decumulation decisions in the round. We are undertaking further exploratory work in this area and look forward to sharing our ideas with HMT and the FCA as the review progresses.

Barclays' views on the proposals

We have considered the proposals in the Review and are of the view that Proposal 2: Targeted Support provides the greater opportunity to close the advice gap. For Barclays, if we assume that Targeted Support is aimed at customers who have a desire to invest, our digital investing propositions already caters to this. Currently, we are unable to support customers to the full extent that we would want to enable good investing decisions. Targeted Support can solve for this. Some customers who currently take advice may only need guidance/Targeted Support and, therefore, achieve better overall outcomes by not having the cost of advice. Additionally, customers who would not have taken advice will be helped to spot the need for advice (via Targeted Support) sooner and benefit from better outcomes in the long term.

We think that HMT and FCA can achieve dual objectives here: (a) moving customers out of cash (where appropriate to do so) and (b) increase the volume of customers who value advice/guidance (and therefore, reduce the harms associated with getting advice from unregulated sources such as social media). To achieve this, HMT and the FCA will need to review its risk appetite on consumer risk-taking. In setting its own risk appetite on the extent to which firms could lead customers to make investment decisions, the FCA effectively acts as an intermediary for customer decision making. To improve consumer confidence in making investment decisions, they need to be exposed to greater risk than they currently are. This means that HMT and the FCA should accept a degree of risk and failure tolerance in the system. Therefore, the regulatory approach should enable individuals to effectively assess the risk they choose to take, within a system that provides them with the confidence to understand the impacts of doing so, rather than aiming to eliminate all risk on their behalf.

[2] https://www.resolutionfoundation.org/app/uploads/2020/12/The-UKs-wealth-distribution.pdf

To give firms greater confidence on how the FOS might interpret complaints, we ask that the suitability rules under COBS 9 be amended for Targeted Support. Disapplying the requirements on suitability of recommendation would ensure that the FOS consider such complaints appropriately given the nature and risk, and do not assess future complaints in the same away as advised sales. Furthermore, we see Targeted Support operating as an add-on to non-advised business rather than a lesser from of regulated advice. This would provide clarity that Targeted Support is not intended to substitute for personalised recommendations. Without these clear parameters, we believe that there is a strong and likely risk that the uncertainty of exposure from customer redress will preclude firms from acting in this area, undermining the positive impact that any new rules and regulations could have.

Targeted Support can be used to help (1) those who want to start investing and (2) those who could invest better. We have ambitions to do both. However, overly prescriptive rules layered on top of the Consumer Duty will stifle innovation and compromise on the prospect for change.

We agree that HMT and the FCA should take an outcomes-based approach and are broadly supportive of the proposed minimum requirements. While we agree that the customer needs to understand that Targeted Support is not advice, the service needs to be kept simple and as frictionless as possible to prompt customer action. Customers generally have a poor understanding of the advice industry, so the FCA's approach should be informed by customer research and behavioural insights. Detailed disclosures and requirements for customers to opt-in up-front may create an unnecessary barrier to entry and we do not support prescriptive language.

We support the proposed approach to fees and charges and agree that Targeted Support should not be subject to explicit charges.

We understand that there is further work to be done to determine how targeted and specific firms could be. Barclays, as a large retail bank, has a broad data set on customers' financial picture. This provides us with the opportunity to sub-segment our customer base to provide targeted 'people like you' suggestions and adopt a channel-of-choice approach that best suits customers' preferences. However, we are strongly of the view that there should be a level playing field between providers in terms of expectations on use of data and the FCA should set minimum expectations via Guidance.

Additionally, we think that both suggesting a single course of action or product; or multiple courses of actions or products should be permitted, to allow firms to best response to customer needs. In recognition that constructing 'people like you' suggestions is new to the market, firms will naturally go through a period of testing and iteration (not least to meet Consumer Duty expectations). We encourage HMT and the FCA to enable testing/piloting by firms via an implementation period or period of safe harbour. Firms would also benefit from supplemental guidance in response to learnings across the market on customer behaviours and responses to Targeted Support to enable best practice.

Barclays has contributed to each of the Investment Association; The Investment and Savings Alliance (TISA); and UK Finance responses.

Our response to the consultation questions covers views from Barclays Private Bank and Wealth Management and Barclays UK, representing our breadth of propositions including savings, ISAs, digital investing and wealth management. We have not responded to all of the questions, instead have focused on Proposal 2: Targeted Support.

We greatly welcome the engagement with HMT and the FCA during the consultation period and the opportunity to provide our detailed views on the proposals. We re-iterate that Barclays is keen to contribute to further thinking on design, consumer research and testing. We look forward to continuing our engagement as you consider next steps.

Consultation Questions

Question 1: In your view, do any of the proposals outlined in this paper adversely affect different groups of consumers and why?

Retail investors

1.1. We do not think that there are retail investors with investable assets who would be adversely affected by the proposals.
1.2. The FCA's Consumer Investment Strategy 2 year update shows that the volume of UK adults who have £10k or more of investable assets and hold the majority or all in cash increased from 8.4 million in 2020 to 11.8 million in 2023. Of these, 5.2 million have some appetite to take investment risk. Using the FCA's measure, those who have low financial resilience (i.e., with little to no savings) or of lower incomes are *unlikely* to be impacted by the proposals.
1.3. We think that the targeted support proposal will result in increased retail investor engagement with money guidance and financial advice. This is likely to have positive benefits across multiple groups of consumers:
   1.3.1. Those seeking to save more or establish a regular savings habit;
   1.3.2. Those with savings but do not engage with where their money is saved (e.g., those with a cash ISA who could benefit from a S&S ISA; those with money in a fund but have not reviewed their options/returns in some time);
   1.3.3. Those who are investing, but could make better choices relative to their investment risk and/or financial objectives (e.g., those who should diversify their investments; those who should recalibrate their investment profile as they are closer to retirement, etc.).
1.4. However, the proposals assume that a customer who has the desire to invest will value and seek out financial guidance or advice. From our insights, we know that customers do not understand the benefits of guidance/advice and, therefore, are unlikely to demand it even when it would clearly be of benefit. If the Targeted Support proposal is not sufficiently flexible and simple in scope and design, this may have the adverse consequence of discouraging action, therefore, adversely impacting on prospective retail investors.

Mass market customers

1.5. The majority of the retail customer base do not make financial decisions in isolation or individually. While the proposals are only aimed at those with investable assets, to reach the potential volume of customers who could benefit, firms must be enabled to provide financial guidance (or Targeted Support) on all assets. To successfully close the advice gap, HMT and the FCA must consider the interaction and relationship between the home (buying, upgrading, smoothing borrowing, releasing equity, downsizing, bequeathing), the workplace pension, insurance, and investments. In high-wealth households, business is a significant asset type, and this adds an additional layer of complexity to customer financial decision making. In many cases, financial decisions are not made individually, but as a household.
1.6. Further Clarifying the Boundary and Targeted Support proposals are aimed at providing support to customers who are or could make better investment decisions. However, this ignores the reality that UK consumers do not have a culture of investing.
1.7. To improve this culture, we think that there is a role for government and regulator to improve customer understanding of risk taking. Consumers lack confidence. Economic and inflationary uncertainty as eroded the trust that consumers have in their own financial resilience. This contrasts with the reality that many households have savings that could be invested.[3] Additionally, risk warnings on investments can have the effect of reinforcing customers' lack of trust.

[3] The FCA estimates that there are 15.6 million UK adults with investible assets of £10,000 or more.

1.8. To support customers to feel confident in making better financial and investment decisions, the regulatory framework should be designed with acceptance of a degree of risk and failure tolerance in the system. Therefore, the regulatory approach should enable individuals to effectively assess the risk they choose to take, within a system that provides them with the confidence to understand the impacts of doing so, rather than aiming to eliminate all risk on their behalf.

1.9. HMT and the FCA should, therefore, explicitly set out that a good outcome of Targeted Support is getting a consumer invested and in better products (i.e., we would rather see a customer put £5k into a managed passive fund than buying £5k in a single stock). HMT and the FCA should also explicitly de-link performance of an investment from what is considered a good outcome of Targeted Support (i.e., ultimately, a bad outcome is a consumer with higher risk tolerance staying in cash). This will help the FCA to achieve their objective in the Consumer Investment Strategy of a 20% reduction in the number of consumers with higher risk tolerance holding over £10,000 in cash by 2025.

1.10. Government should also consider the role of MaPS in improving financial capability and confidence to evaluate risk.

1.11. Without this broader view, we think that the proposals could have the unintended consequence of excluding certain groups of potential savers and investors from benefitting from financial guidance/advice.

Question 2: Is there a role for the 3 proposals (further clarifying the boundary, targeted support, and simplified advice) outlined in this paper? Could these work alongside existing forms of support? When responding, please include how the proposals would (or would not) work alongside each other.

Further Clarifying the Boundary

2.1 We think that there is a role for further clarifying the boundary as it provides greater certainty on what does not constitute a personal recommendation. This proposal would complement Targeted Support.

2.2 However, we agree with the TISA response that on its own, it is unlikely to lead to meaningful support given that advice is not reaching all parts of the market.

Targeted Support

2.3 We welcome the Targeted Support proposal and see a clear role for this in improving customer engagement with their investment decisions. For this proposal to work, there may be exemptions required to the existing boundary in PERG (we expand on this point at Question 20). Additionally, the FCA should consider how this proposal interacts with the new retail disclosures framework; the ICO's direct marketing rules; and the outcomes of the Guidance Consultation on financial promotions on social media (we expand on this at Question 11).

2.4 We think that firms should be enabled to proactively respond where we see sub-optimal investor behaviours. For example, customers who have indicated a risk appetite but their investments do not match this; customers who could be (more) diversified; customers who open an ISA but do not trade etc. We think that this works alongside the expectations in the Consumer Duty

2.5 As government progresses their roadmap for Smart Data Implementation, there could be opportunities to consider how customers could be supported to understand their financial position and the value of investing. This could help drive demand for guidance/advice.

Simplified Advice

2.6 We recognise that the FCA has taken on board the feedback provided on the Core Investment Advice Regime. From Barclays' perspective, however, we think that this regime is unlikely to be successful. We do not see clear evidence that enough customers want Simplified Advice and would be willing to pay sufficient fees for it to both be attractive and commercially viable.

2.7 Our research shows that shifting consumer attitudes towards long-term financial planning and investments is a journey, as many do not feel confident to navigate this market and/or overestimate the risk of investing. Therefore, engagement is a critical first step and pre-requisite for generating interest in pursuing new financial opportunities. In our view, there will be limited demand for simplified advice in the absence of wider engagement measures.

Question 3: Are there are any other proposals that we should consider to help close the advice gap and how can we support the provision of more guidance? Please outline your proposal in as much detail as possible.

3.1 HMT should consider the role of government (and MaPS) to support consumers' financial capability. The proposals focus on the supply side, aimed at enabling firms to provide more financial guidance/advice. However, government has a role to stimulate consumer demand via communication and education campaigns.

3.2 Although ISAs are a wrapper and not a product, government should consider how savers could be better supported to understand the benefits of advice and support for their investment decisions. Changes to the ISA regime and measures to encourage retail investing in stocks and shares provides the government with opportunities to reach mass market consumers and demonstrate the value of guidance/advice.

3.3 More thought should be given to how firms could be enabled to fully support mass market customers. We are undertaking further exploratory work in this area and look forward to sharing our ideas with HMT and the FCA as the review progresses.

Question 6: Do you support the concept of targeted support and do you support developing a regulatory framework to deliver it? If not, why not? Are there any key features (in addition to those discussed below) that you believe targeted support should include?

6.1 Yes, we support the concept of targeted support and the development of a regulatory framework to deliver it.

6.2 We are strongly of the view that the design of Targeted Support has to be simple, aim to have the least friction, and enable firms to provide actionable suggestions. This should not simply be looked at on a product-by-product basis, but allow firms to react to consumer behaviour.

6.3 Our insights tell us that customers are more likely to disengage and not take action if the customers journey is too long or complicated. Given the volume of unadvised customers in the UK, Targeted Support will need to be designed to convince customers of the value of guidance/advice.

Limited personal information

6.4 This proposal contemplates using limited personal information about a customer and their circumstances to provide support to consumers to help them make an informed decision. To help firms design and implement a targeted support offering, it would be helpful if the FCA could set out to what extent firms should vs. may seek information from the customer; and whether they should do so directly or via use of existing data points to determine if the customer falls into the target market. From Barclays' perspective, we strongly consider that there should be a level playing field between providers in terms of expectations on use of data. We think that the FCA should set minimum expectations via Guidance.

6.5 The targeted support proposal relies on firms satisfactorily understanding the needs and characteristics of the customers in the relevant target market (as per the Consumer Duty). Further Guidance on FCA expectations would be useful. Greater clarity on (a) whether firms will be required to verify within the customer journey that the customer's needs, characteristics and objectives meet those identified in the target market; or (b) if customers could be allowed to self-identify based on scenarios/'people like you' descriptions. Our preference is for the customer to self-identify/confirm whether they meet a 'people like you' scenario.

Opting-in to Targeted Support

6.6 We note that HMT and the FCA proposes that the customer needs to make a clear and positive choice to receive Targeted Support. We agree that the customer must understand that Targeted Support is not Advice (i.e., that they are not receiving a personal recommendation) and not marketing. We do not think that firms should be limited to offering support purely on an opt-in basis, as this would significantly reduce the volume of customers accessing this help. An opt-in model appears to contradict the Consumer Duty expectations, where it is not crucial for customers to make a clear positive choice for their product provider to offer them communications and information that leads them to better outcomes.

6.7 Instead, we strongly urge HMT and the FCA to allow firms to proactively offer or signpost customers to Targeted Support. This would echo the expectations that the FCA has set for firms in the *Cash Savings Market Review 2023*, where to meet the Consumer Duty consumer understanding and consumer support outcomes, firms are to proactively make customers aware that they are in the lowest paying accounts and help them save regularly to increase their financial resilience. For this market – those moving cash into investments – it seems reasonable that firms should make customers aware where they could make better investment decisions. For example, some scenarios where this might apply (non-exhaustive):

6.7.1 If the firm can see that there are high cash balances in a customer's account, they may want to use Targeted Support to make the customer aware that 'people like you *should*' invest in an ISA or in our Ready-made Investment Funds and do so by taking X,Y,Z actions;

6.7.2 If the firm can see that a customer has opened an ISA but does not trade or make regular top-ups, they may want to use Targeted Support to outline that 'people like you *should*' maximise their ISA allowances <u>and</u> can do so by setting up a direct debit or selecting A,B,C diversified funds on our platform.

6.8 We agree that the customer should confirm their understanding of Targeted Support and consent prior to trade/execution. If it is an existing customer, they could seek to opt-out of Targeted Support when making a product selection. This approach is more likely to expand the reach of Targeted Support, and ultimately, enable more progress against the FCA's Consumer Investment Strategy objectives. This should also be looked at in the round alongside the proposed requirements on disclosures, as this might have the unintended consequence of leading to inaction (where the customer would benefit from taking action).

6.9 If Targeted Support is purely opt-in, HMT and the FCA should consider how they will also work to raise consumer awareness around the benefits of guidance/advice and the value of Targeted Support to encourage confidence and uptake. Without this, it is unlikely that the proposal will succeed.

Customer protection

6.10 HMT and the FCA emphasise that Targeted Support needs to sit within a robust framework of regulatory protections that protects customers from harm. We agree, and consider that there are sufficient mechanisms that already exist, including via the Consumer Duty.

6.11 Furthermore, there are existing requirements on banks to share competitor information with a customer to support their decision making that could be enhanced or adopted here. For example, the Retail Banking Order requires Service Quality measures to be displayed by banks. A similar approach would be to set an industry standard on how Targeted Support is described so that customers are aware of the distinction between guidance, Targeted Support, and advice. This would be an operationally practical way to ensure consistency across all firms, while enabling customers to understand the varying levels of personal responsibility associated with accessing each form of guidance/advice (and therefore, enhance protection). We would support further work via an Industry Working Group to develop this standard.

Clarity on permitted activities under Targeted Support

6.12 Notwithstanding our comments above about responding to customer behaviours and simplicity of approach, for firms to have confidence to implement Targeted Support, there needs to be clarity on the activities that will be permitted and the level of onus on customers to make better (and not necessarily best) decisions. As stated above, our view is that to achieve this, HMT and the FCA will need to accept a degree of risk and failure tolerance in the system. This means that individuals should be able to effectively assess the risk they choose to take rather than aiming to eliminate all risk on their behalf. It is also important that firms are given reassurance that, when it comes to interpreting future complaints, FOS will recognise and accept that there is a clear distinction between a product taken out following Targeted Support compared to a personal recommendation. This will allow firms to have greater confidence on how the FOS might interpret future complaints (we expand on this point at Questions 8 and 10). Without clear parameters, the risks and uncertainty of exposure from customer redress will preclude firms from acting in this area.

Question 7: What types of firms do you think would be well placed to provide targeted support?

7.1. Those who could provide both Targeted Support as well as an advised journey. We think that firms could provide Targeted Support via multiple channels.

Question 8: Do you think there should be restrictions on the types of firms allowed to provide targeted support, and why?

Permissions

8.1 It is important to have clarity on the permissible activities under Targeted Support as this provides a clear framework for operationalisation and complaint handling in the future.

8.2 We support changes to the Regulated Activity Order (RAO) to specify a regulated activity of Targeted Support. This should sit between executing a customer request and making a personalised recommendation. This could be implemented via a variation of permission.

8.3 We do not think that Targeted Support should be categorised as a lesser form of Advice within the RAO, instead, see this as an add-on to non-advised business. This would allow firms to take a digital-first approach via execution-only. For example, we envisage offering Targeted Support that links the customer to a platform where they could take the suggested actions. We would need clarity on the authorisations required and that this journey is allowed within the permissions.

8.4 If HMT and the FCA stipulates a new permission, we urge that there be careful consideration of Training and Competency requirements ('knowledge and understanding' in MiFID). We think that Targeted Support could also be delivered via face-to-face or telephony channels by 'information providers' under MiFID. Using regulated Advisers to deliver Targeted Support would impose significant implementation burden and cost on firms.

8.5 We support consideration of assigning responsibility for Targeted Support to a senior manager under the Senior Managers Regime.

8.6 We would also ask for clarity on expectations regarding non-financial reporting and the likely implications on FOS Charging Groups.

Determining the Target Market

8.7 Firms should have a sufficiently sized target market to form a robust view of what actions "people like you" should take. Firms should also have a sufficiently robust data set to form "people like you" suggestion/s. This should not be prescribed, rather as part of the permissions process, the FCA should evaluate the firm's customer base and dataset to ensure that it aligns to the target market under each product set. Further Guidance from the FCA on their expectations regarding how firms determine the target market and/or the extent to which firms could sub-segment their customer groups would be useful.

8.8 A firm who did not currently service customers below a certain asset threshold is unlikely to be able to support that cohort in their investment decision. For example, at Barclays, we are well placed to offer Targeted Support to customers in our Premier business (>£75k income or >£100k assets) who may wish to invest and could benefit from our digital investing and Wealth Management offerings. This is because we have a sufficiently broad customer base to form an understanding of the needs and characteristics of those whose financial objective is to move up the wealth spectrum.

Question 9: Do you agree that the scenarios outlined are appropriate for a new targeted support regime? Please suggest any other specific scenarios where targeted support might be appropriate and could benefit consumers.

9.1. We think that Targeted Support needs to be sufficiently flexible to allow firms to respond to the behaviours that customers exhibit rather than from a product-by-product perspective. The FCA outlines three categories that are appropriate to be in scope of targeted support: non-investors with 'excess cash'; supporting wealth accumulation decisions; and supporting wealth decumulation decisions. Within these categories, the FCA sets out further examples.

9.2. While we agree with the examples in paragraph 4.16 of the DP, we do not think that it necessary for the FCA to prescribe these. As described above, by limiting the scope to specific product decisions a customer might take, the proposals do not invite us to respond holistically to mass market needs as much as we would like to. The trigger points or life events that might motivate a customer to engage with financial guidance and advice are multitude and varied. Attempting to describe specific scenarios where a customer could benefit from Targeted Support would have the consequence of limiting firms' ability to meet their customer's financial objectives (as per the Consumer Duty). Prescription is likely to have the unintended consequence of replicating the existing gaps in advice (as per our points at Question 1).

9.3. Instead, the FCA should set out the objectives and outcomes that they want to achieve, and allow firms to determine the categories and target market. We suggest that the objectives of targeted support include:

9.3.1. greater engagement with investment decisions, financial guidance and advice; and

9.3.2. action taken to get invested (according to the consumer's risk tolerance).

9.4. In our view, as outlined at paragraph 1.9 above, HMT and the FCA should explicitly de-link performance of an investment from what is consider a good outcome of Targeted Support (i.e., ultimately, a bad outcome is a consumer with higher risk tolerance staying in cash).

Question 10: Do you agree with the high-level minimum requirements for a proposed new standard for targeted support? Please explain your answer.

10.1 Yes, we broadly agree with the high-level minimum requirements in paragraph 4.20(a) and 4.20(b)(i) in the DP as a new standard for targeted support.

10.2 As stated above, we ask the FCA for further clarification on their expectations on how firms determine the target market for the purposes of Targeted Support.

10.3 The FCA proposes that firms take *"reasonable steps to ensure that the support that they provide is only directed to people with similar needs, characteristics and objectives as those in the identified target market"*. We are unclear what the FCA means by "reasonable steps". We ask that the FCA clearly sets out their expectations here given the potential likelihood of FOS interpretation. We are also uncertain how a firm can guarantee that Targeted Support is 'only directed' to those in the target market. Consumer Duty rules 2A.2.2R and 2A.3.4R sets out that firms are to act consistently with the reasonable expectations of retail customers; and consider the relevant risks to the target market. It does not expect firms to stop someone who is not in the target market from accessing a product or service but rather ensure that the customer is informed enough to make an assessment on whether the service is right for them. If a customer is opting-in to Targeted Support (as currently proposed), we argue that it is for the customer to satisfy themselves that they identify with the target market. If firms are permitted to proactively offer Targeted Support, this offers a greater control environment where firms could ask the customer to self-identify/certify that they are within the target market (as per our suggestion at paragraph 6.5).

10.4 We do not think that paragraph 4.20(b)(ii) in the DP is necessary as existing rules (and the new disclosure framework for retail investors) will mean that firms will always provide risk warnings and disclosures that returns are not guaranteed. Therefore, this paragraph is redundant.

Question 11: Are there any regulatory rules or guidance that apply to your firm which could impact on your ability – positively or negatively – to contact consumers and offer them targeted support? Please specify which rules and explain the impact.

11.1 We think that the following rules could impact on our ability to contact customers and offer them Targeted Support – either directly (i.e., impacts on making contact) or indirectly (i.e., via disclosures that might discourage a customer from taking up Targeted Support):

11.1.1. ICO direct marketing rules;
11.1.2. Risk warnings;
11.1.3. SDR and potential industry-led best practice recommendations;
11.1.4. MiFID suitability rules in COBS 9;
11.1.5. The new retail disclosures framework for Consumer Composite Investments;
11.1.6. Forthcoming Guidance on Financial Promotions on Social Media; and
11.1.7. Synthetic Data Call for Input Feedback Statement and next steps.

11.2 We ask that the FCA carefully consider the aggregate impact of retail disclosures, risk warnings, and information/disclosures provided under targeted support on retail investors' cognitive load. TISA's Inclusive Investing research and the FCA's Smarter Consumer Communications programme could inform this work.

Question 12: Which of the 3 options for types of suggestions would be most impactful under targeted support, and why? Are there any other options we should consider?

12.1. We encourage HMT and the FCA to maintain all three options for types of suggestions under Targeted Support. Being able to support customers to make decisions about an existing product; suggesting a short list or range of new products; and suggesting a single new product will each benefit different customer cohorts. We consider that Targeted Support should allow firms to provide "people like you" suggestions on the basis of what we think the target market *should* do. Given the volume of customers with investable assets that are kept in cash, using a data set to construct what "people like you" *do now* is likely to perpetuate existing sub-optimal practices.

12.2. We also think it useful to define what is meant by a 'single product'. Looking at Targeted Support from a customer behaviour perspective, we see this applying to both (1) those who want to start investing and (2) those who could invest better. We envisage being able to provide actionable suggestions which could include either a single product or action; or multiple products or actions. For example:

12.2.1. People like you saving for a house purchase deposit in 5 years' time with a medium risk appetite typically invest in a S&S ISA and do so by selecting from this range of diversified Ready-made Investment Funds (offered on our Smart Investor platform).

12.2.2. You regularly invest in loss making single stocks. People like you who regularly invest consider diversifying their portfolios by investing in X fund.

12.3. Therefore, we think that option 4.28(a) which is aimed at supporting customers make better decisions about an existing product could go further.

Explaining 'people like you'

12.4. We suggest that the FCA undertakes further customer research to determine how customers might respond to the phrase "people like you". There is a risk that the phrase "people like you" is too similar to Amazon type 'recommendations' (e.g., 'people like you also bought'/'based on your purchases'). The average customer might misconstrue the phrase as an assessment of their past behaviour, rather than an indication of what the people in the same cohort should do.

12.5. From our customer insights, those who invest or seek advice typically perceive themselves to have unique financial circumstances. So, they tend gravitate towards more targeted or personalised nudges rather than ones that they perceive to be based on an average. In exploring with our proposition teams how we would build a "people like you" scenario, we think we would need to consider:

12.5.1. personal characteristics – age, income bracket, financial holdings, pay away data etc.;

12.5.2. contextualising a scenario to some level of specificity so that the customer does not think that it is generic (e.g., people who open an ISA could be too generic a scenario whereas people who regularly save into an ISA might be more relatable/specific);

12.5.3. setting out our workings (i.e., via a digital journey, we envisage having a little 'I' information button that would explain the criteria used for the suggested action/product); and

12.5.4. what minimum volume of customers should be in the pool for each scenario to ensure a robust data set, commercial viability, and to drive action.

12.6. Overall, more testing needs to be done in this area, but we ask that HMT and the FCA steers away from requiring firms to us the specific phrase "people like you". Instead, it would be more effective for HMT and the FCA to set out how granular or targeted firms could be, while providing comfort that this would not be considered a personal recommendation from a regulatory perspective.

Validating what 'people like you' should do

12.7. We also ask for further guidance on the steps that firms could take to ensure that the suggested actions accompanying "people like you" is validated and robust. We think that HMT and the FCA should:

12.7.1. provide firms with a period of piloting/testing as part of implementation, given that Targeted Support does not currently exist in the industry;

12.7.2. create a feedback loop as part of implementation, where HMT and the FCA share supplemental guidance (formal or informal) back to firms to encourage progress and support testing and learning.

12.8. Further to our point at paragraph 12.6, from a large retail bank perspective, we would want to ensure that we can deliver "people like you" suggested actions to cohorts of several thousand people at a time. We would evaluate the response and actions taken and seek to adjust or retire scenarios accordingly.

12.9. So we do think that it is important that HMT and the FCA explicitly sets out that "people like you" is clearly aimed at encouraging customers to make better not best decisions.

Question 13: How should communications to consumers be framed so that they can effectively understand the targeted support they are receiving? Please give examples.

13.1 We do not think that the FCA should prescribe communications or text to provide to consumers. Firms are best placed to determine how they meet the Consumer Understanding Outcome and within the Consumer Duty there is sufficient Guidance on meeting this outcome.

13.2 However, there may be benefits to standardisation across the industry on how they describe what targeted support is and the differences between money guidance, targeted support, and financial advice.

13.3 If HMT and the FCA maintains an opt-in requirement, further consideration should be given to how firms communicate who/when Targeted Support would not be appropriate. Firms could include information within the customer journey to explain the criteria or minimum requirements (e.g., 'you have investable assets'/ 'you have excess savings in cash'). If firms could proactively offer Targeted Support, there is likely to be greater controls and this reduces the risk that customers access Targeted Support when it is not appropriate for them.

13.4 However, there will always be some (small) risk that the customer chooses to progress with a suggested course of action/s or product/s when they are not within the target market. As reiterated at paragraphs 1.18 and 6.12, customers need to be enable to evaluate risk for themselves.

Question 14: Do you agree that targeted support should not necessarily be subject to explicit charges? If so, how should firms be remunerated, and why?

14.1. We are strongly of the view that firms should not be able to explicitly charge for Targeted Support. Firstly, if a customer feels like they have paid for something, they are likely to think that they have received advice. Customers do not always recognise the value of advice and perceive it to be expensive. Secondly, we think that no explicit charges is important to create a level playing field and foster competition and innovation.

14.2. We strongly urge HMT and the FCA to prevent firms from paying for optimisation, social media or 'finfluencers', or other unregulated advisers. The FCA should consider GC23/2: Financial Promotions on Social Media, once finalised, and apply the same expectations on how social media is used to promote financial products to Targeted Support (and financial advice more broadly).

14.3. Firms should continue to be able to charge a transaction fee and customer fee.

Question 15: If you agree with Q14, what safeguards and disclosure requirements should be in place to manage any conflicts of interest arising from enabling targeted support to not be subject to explicit charges, and why?

15.1. Regulatory expectations and industry practice has significantly changed since the RDR. Additionally, implementation of the Consumer Duty means that firms are subject to greater standards on Fair Value, Customer Understanding and Customer Support outcomes. This leads us to conclude that the historical harms that arose from bad actors in the industry and misapplication of suitability are unlikely to be replicated.

15.2. Additionally, the controls around use of data (see question 6) and approach on fees and charges (question 14) provides additional safeguards against the risk of conflicts of interest arising.

15.3. From the perspective of a large retail bank, we are confident in our assumption that customers would reasonably expect to be suggested products that we manufacture. For example, it is highly unlikely that someone using a Barclays' digital journey would expect to be offered another retail bank's ISA. Similarly, we can reasonably assume that a customer would expect to be offered a Barclays ISA <u>and</u> a Barclays Ready-made Investment funds within that ISA. Similarly, we do not think that Targeted Support lends itself to a 'loyalty penalty' as found in the mobile or insurance market. The CMA identified that a 'loyalty penalty' arises where contracts renew or roll over onto a higher rate (via a price jump, price walking or legacy pricing)[4]. From a Barclays perspective, (and given the Fair Value outcome) we are unlikely to have a pricing scenario where a fee charged for use of a platform would differ if the customer also invested in our funds. Not least as firms are required to charge the same for custody and other fees regardless if the customer is investing in Barclays' funds or a third party.

15.4. While this might mean some narrowing of customer choice, we remind HMT and the FCA of the objective to drive better not best actions. Additionally, Consumer Duty means that we would need to evaluate Targeted Support to ensure that it is driving good customer outcomes. This provides a sufficient safeguard from a customer perspective.

Question 16: Do you agree that there should be no limit on product and investment range or monetary value limits (beyond those applying to the Review as a whole and in the retail distribution space more generally) applied to targeted support? If you disagree, what should the limits on product and investment range and monetary value be and why?

[4] https://www.gov.uk/government/publications/tackling-the-loyalty-penalty/tackling-the-loyalty-penalty

16.1 Yes we agree that there should be no limit on product and investment range or monetary value limits applied to targeted support. Instead, firms will have their own minimum requirements and this should not be prescribed.

Question 17: Are there any other limitations which should be imposed on targeted support? Please explain your answer.

17.1. None

Question 18: Do you agree with the disclosure objectives for targeted support? Are there other factors that consumers should understand when making decisions in relation to targeted support?

18.1. We agree with the objective as stated in paragraph 4.44 in the DP that "disclosure should support the consumer's understanding that Targeted Support will not identify all individual needs and instead is based on a target market approach". However, we do not fully agree with the aim that "consumer facing disclosure around Targeted Support would enable consumers to decide if the service meets their needs or whether they need more bespoke support through simplified or holistic advice".

18.2. Disclosures alone cannot compensate for a consumer's own ability (or lack thereof) to assess their individual needs. As per the proposed high-level minimum requirements, firms can take reasonable steps to ensure that the support they provide is directed to consumers within the target market. Disclosures could help support consumer understanding of who the firm intends the target market to be. However, by virtue of designing an approach at target market level, it is not possible to "disclose away" a consumer's own understanding of whether they fit the target market or not.

18.3. HMT and the FCA recognises (as evidenced in the FCA's Financial Lives Survey) that financial capability in the UK needs improvement. While Targeted Support can act as an enabler to better investment decisions, ultimately, it is for consumers to exercise their choice on whether (a) the support best suits their needs, and (b) to take action based on the support received.

18.4. As per our response to question 13, the FCA should not prescribe disclosures or text to provide to consumers. Instead, the consumer duty requirements on Consumer Understanding, along with MiFID, provides a sufficient framework.

18.5. Instead, industry best practice that standardises some consistent form of language to promote understanding of what Targeted Support is would be more effective.

Practical considerations

18.6. Simplicity needs to be at the heart of the design and user experience for Targeted Support to be successful. To achieve a simpler digital experience, we suggest that disclosure of what is Targeted Support be designed around 3 to 5 points that could be digitally displayed (i.e., app screens style). We do not think that the more involved Key Information Document or terms and conditions approach would be effective (and risks customers skipping over the information).

18.7. The FCA has undertaken multiple reviews over the last 10 years of digital 'Smarter disclosures'[5] and should use this evidence to inform the approach on disclosures.

18.8. HMT and the FCA should also refer to the TISA Inclusive Investment research which considers how framing of investment information can stimulate action.

Confirmation of understanding

18.9. As stated above, we prefer an opt-out rather than opt-in approach for accessing Targeted Support. We agree that the firm should confirm their understanding before execution/trade. However, we agree with the Investment Association that these confirmatory statements should not be prescribed.

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[5] https://www.fca.org.uk/publications/discussion-papers/smarter-consumer-communications-further-step-journey

Question 19: Do you consider an 'outcomes based' or 'prescriptive' approach to rulemaking most appropriate in underpinning disclosures for targeted support? If a prescriptive approach is thought more appropriate, please outline what detail you would like included and why?

19.1. An outcomes based approach to rulemaking is most appropriate in underpinning disclosures for Targeted Support.

19.2. However, we do think that there elements of Targeted Support where the FCA should offer further Guidance or set minimum standards, including how firms are to describe what Targeted Support is (see paragraphs 6.11 and 13.2).

19.3. We are strongly of the view that disclosures cannot be considered in isolation and urge the FCA to assess the impact of the forthcoming retail disclosures framework and SDR requirements on customers' cognitive load.

Question 20: How should targeted support be delivered from a regulatory and legislative perspective and why? Which regulatory and legislative mechanism should be used to deliver targeted support, and why?

Permissions

20.1. See our response to Question 8.

20.2. To emphasise, Targeted Support should be delivered via a new regulated activity permission to be enabled in the Regulated Activities Order. The permission would allow firms to take personal circumstances into account to form a view of target market (e.g., relevant information firms hold or gather), and apply this view when issuing targeted support communications to consumers, whilst stopping short from allowing firms to provide personal recommendations.

20.3. It will be critical for firms to be clear on scope, as well as the depth of information that we will be expected to have or obtain before providing Targeted Support.

20.4. We do agree with industry views that there should be a restriction to ensure that providers could not guide a customer to purchase individual securities. The FCA could build on the concept of readily realisable securities in the Handbook to enable this.

Interaction with other regulatory and legislative mechanisms

20.5. We suggest that the following amendments are also considered:

- 20.5.1. MiFID Appropriateness Test exemption to be provided to all firms using the new permission, on the basis that the use of the new permission would fall within a new and separate regulatory regime aimed at protecting the interest of consumers.
- 20.5.2. The COBS 9 rules on suitability to **not** apply to the new permission. The consumer protection for suitability of recommendations and right to redress would need to be amended.
- 20.5.3. The rules on adviser charging to not apply to the new permission.
- 20.5.4. The rules on qualifications to not apply in their current form to the new permission.
- 20.5.5. the regulations to make clear that the requirements of individual suitability are not intended to apply to use of the new permission.

Question 29: If the proposals in this paper are taken forward, do firms consider there should be any amendments to the Dispute Resolution sourcebook to enable them to provide different levels of support? If so, please describe them.

29.1 If a consumer receives Targeted Support communications that are unclear, unfair or misleading the consumer ought to i) be able to make a complaint to the firm and ii) have ultimate recourse to the FOS.

29.2 However, the customer would not have the ability to win compensation on the basis that the communications were not suitable for all their personal circumstances (because the personalised financial communications will never be driven from a full fact find advice process) or due to any changes to their personal circumstances.

29.3 Furthermore, we think that the FCA should work with the FOS to set out a complaints approach, to provide certainty for firms on what factors they will consider when adjudicating on cases. This could be established via industry roundtables/feedback sessions during an implementation period.

Question 31: What examples of consumer support do firms want to provide to consumers, particularly in light of our proposals, but feel they are unable to do so because of PECR direct marketing rules or other data protection rules? Evidence on the consumer outcome being sought and, where appropriate, reasoning for why direct marketing rather than other communications is necessary for delivering this outcome, would be welcome.

31.1. We think that PECR rules prevents proactive outreach to highlight potential new products or features of interest to certain target markets, where consumers within those target markets have opted out of marketing communications. This potentially lessens the support available to some consumers under the Targeted Support regime (or relies on an opt-in approach, which as already discussed, the population of unadvised and uninvested consumers suggests that they would not independently seek out support).

Question 32: What steps could be taken to provide reassurance about the electronic communications that firms can provide to give greater consumer support, in compliance with PECR direct marketing rules? Do you consider a similar approach to the joint FCA / ICO letter on savings rates may help provide additional clarity on this?

32.1. Yes, we support a similar approach to the joint FCA / ICO letter on savings rates and agree that it may help provide additional clarity on compliance with PECR direct marketing rules (see Question 11).

32.2. However, we suggest that HMT and the FCA gives further consideration to a more general letter on data protection/NCD interactions, rather than one focused on advice/Targeted Support specifically. Having numerous different ICO/FCA letters on individual policy areas/products is likely to create a more complicated regulatory regime.