

06/5

Financial Services Authority

Point of sale investment
product disclosure:
feedback on CP170
and CP05/12

November 2006



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Annex: List of non-confidential respondents

This Feedback Statement reports on the main issues arising from Consultation Papers 170 and 05/12.

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1 Overview

- 1.1 We are currently seeking views, in Consultation Paper (CP) 06/19¹, on proposed changes to our point of sale investment product disclosure regime as a result of the reform of the Conduct of Business (COB) regime, more principles-based regulation, MiFID² and our disclosure review. In that CP, we announced our intention to separately publish this feedback statement (FS).

Purpose of this FS

- 1.2 This FS reports on the responses we received on two papers we published as part of our disclosure review - CP170³ and CP05/12.⁴
- 1.3 We will publish feedback on the responses to Discussion Paper (DP) 04/1⁵ separately. We will do this when we consult on our proposed approach for charges information for packaged products and the wider non-MiFID projections regime (which applies principally to life policies). While we are not considering significant changes in our approach for cost benefit analysis (CBA) reasons, we also expect to also consult on the introduction of ‘real’ projections.

Research reports

- 1.4 Alongside this FS, we are separately publishing two reports on the outcome of our consumer research and the cost survey we undertook to inform our policy development.
- 1.5 Our consumer research report, *Investment disclosure research* by IFF Research Ltd (CRPR 55, November 2006)⁶, summarises the results of depth interviews and mock-sales. These were undertaken to test the effectiveness of

1 CP06/19, *Reforming Conduct of Business Regulation* (October 2006).

2 Markets in Financial Instruments Directive.

3 *Informing consumers: product disclosure at the point of sale* (February 2003).

4 *Investment product disclosure: proposals for a Quick Guide at the point of sale* (July 2005).

5 DP04/1, *Projections review - The case for change* (July 2004).

6 www.fsa.gov.uk/pubs/consumer-research/crpr55.pdf

proposed new disclosure documents (the Quick Guide (QG) and charges and projections sheets) when compared against good examples of current disclosure documents (i.e. the Key Features Document (KFD) and illustration).

- 1.6 This research indicated that the benefits of introducing our proposed new documentation would be limited. In particular, while clear consumer preferences were identified for shorter, more focused, 'jargon free' material (such as would be provided by the QG), the research was unable to demonstrate sufficient benefits in respect of changed behaviour and increased understanding over what can be achieved where firms reflect these features through good examples of consumer focused KFDs.
- 1.7 Our cost survey report, *Compliance costs of proposed changes to the investment product disclosure regime* by PwC (November 2006)⁷, sets out the results of a detailed cost survey. We commissioned this survey amongst firms to estimate the incremental costs of a number of potential changes to the current disclosure regime.
- 1.8 The results of this survey indicated there would be significant costs in implementing our originally proposed new disclosure documents (especially those where systems changes would be required, such as for the new charges and projections sheets).
- 1.9 It is in the light of this research and other policy considerations detailed in CP06/19, we are proposing not to implement the QG and charges and projection sheets. Instead, we propose in CP06/19 to simplify our current requirements and implement a number of measures to improve the standard of KFDs and to encourage greater stand-out and readership.

Who should read this FS?

- 1.10 This FS will be of interest to all firms selling, arranging or advising on investment products, advisers, trade bodies and consumer groups.

7 www.fsa.gov.uk/pubs/consumer-research/compliance_costs.pdf

2 Feedback on responses to CP170

- 2.1 This chapter reports on the responses we received to CP170. In places, we refer back to CP05/12 where we published some of our feedback. In others, we refer to our revised approach, set out in CP06/19, as our proposals have developed significantly since CP170 was published.

Overview

- 2.2 The original CP170 proposals involved replacing the current KFD and illustrations with a 'Key Facts document' and 'Example'. We received 63 responses, most of which were from product providers and trade associations. The main points raised were:

- we should undertake further extensive research to determine the benefits of our proposals as these were uncertain;
- we underestimated the costs of developing the 'Key Facts document' and 'Example';
- firms needed guidance on the types of information considered 'core' for consumers to have and that which is 'supplementary';
- the 'Example' placed too much focus on information about charges and not enough of a focus on benefits; and
- the relationship between risks and rewards could be clearer in disclosure documents.

Summary of responses

Q1: Do you agree with our proposal to emphasise the importance of early delivery of product information?

- 2.3 We published a full summary of the responses to this question in CP05/12, paragraphs 2.49-2.50. Generally, the majority of respondents supported an increased emphasis on the early delivery of product information.

2.4 Our proposals have changed since publishing CP170 as a result of the introduction of MiFID which sets out requirements for the timing of delivery of product information. As we explained in CP06/19, we propose to adopt the MiFID standard (that information must be provided in good time before the client is bound by any agreement) as we consider it to be broadly equivalent to our current standard.

Q2: Do you agree with our proposal not to change the scope of the current key features regime, in terms of the products caught?

Q3: Do you agree with our proposal to require information to be offered in relation to all execution-only transactions?

Q4: Do you agree with the proposed extent to which the regime will be different for life and non-life products?

2.5 Paragraphs 2.42-2.43 in CP05/12 give details of the responses to Question 3 and our feedback. In brief, most respondents agreed with the proposal that execution-only customers should be offered the 'Key Facts document'.

2.6 Respondents also favoured no other changes to the current scope of the regime. However, some, including consumer groups, commented that our regime should apply to all products - especially guaranteed income bonds and structured deposits as these should not be subject to lighter regulation than a life or unit-based product.

2.7 It was acknowledged by many that our proposals were constrained by the UCITS (Undertakings for Collective Investments and Transferable Securities) Directive and, so, it was inevitable that differences would exist between the disclosure requirements for life and non-life products. Some, however, thought that where possible we should try to keep differences to a minimum to ensure a level playing field.

Our response: As explained in CP06/19, we have decided to leave the scope of our proposals unchanged from the current regime. We agree that consistency is desirable between disclosure documents and have maintained consistent treatment wherever possible. CP06/19 also proposes adopting the MiFID projection standard for MiFID business. For the wider non-MiFID projections regime, we are reviewing options in this area because of the impact of MiFID and we will consult on proposals in due course.

Q5: Do you understand and accept the distinction we draw between product disclosure and consumer information at point of sale?

Q6: Do you think that this distinction will lead to consumer detriment?

Q7: Do you think that this approach will cause problems for firms in the way they design their marketing literature?

Q8: Do you agree that the new product information document should focus on suitability issues?

- 2.8 Many respondents understood the distinction between ‘product disclosure’ (the provision of all the information a consumer has a right to receive about a product) and ‘consumer information’ (material identified as central to the consumer making a sound decision at the point of sale). However, few felt confident in their ability to properly apply this distinction in the absence of clear guidance on what constituted ‘core’ and ‘supplementary’ information.
- 2.9 Some respondents expressed concerns about whether the Financial Ombudsman Service (FOS) would agree with such a distinction when it assesses complaints. A few respondents thought this distinction could enable some firms to easily conceal important information.
- 2.10 Respondents also thought our approach would cause a number of problems when designing marketing literature. In particular, they commented that there would be an increase in production and distribution costs. They said this would be a result of having to re-design documents, present information in a number of documents and amend cross-references to be page specific.
- 2.11 In CP170 we proposed that the ‘Key Facts document’ should explain the factors that might impact on product suitability for a typical consumer. Most respondents considered the document should focus on generic suitability issues as this would help consumers make informed decisions. Some, however, thought it should address product specifics as focusing on suitability was the job of an adviser. Some also highlighted the risk of consumers confusing information on suitability with advice.

Our response: We consider that our revised proposals in CP06/19 to adopt a high-level approach to the content and timing of delivery of information to consumers would provide firms with the flexibility to ensure appropriate information is provided to consumers before they buy.

Q9: Do you agree with our approach to the disclosure of risks?

Q10: Do you think that it will deliver an appropriate level of consumer protection?

- 2.12 CP170 proposed that providers determine where and how to disclose risks bearing in mind that the ‘Key Facts document’ should highlight only the most significant risks.

- 2.13 While many respondents agreed with this proposal, they requested clarification on what we consider to be the ‘most significant risks’. Some respondents considered that firms would include all foreseeable risks in the ‘Key Facts document’ to mitigate against complaints. A few suggested that generic risks be disclosed in the ‘Key Facts document’ and fund-specific risks in the sign-posted information.
- 2.14 Many felt unable to comment on whether this approach would deliver an appropriate level of consumer protection as this would depend on a number of factors. This includes the tendency for consumers to read and understand product information and the approach taken by the FOS when assessing complaints.

Our response: In line with our principles-based approach to the reform of COBS, we consider that firms are best placed to determine the ‘most significant risks’ of their products particularly as they will be best placed to address their target market. It is also important that firms disclose such risks in way that consumers can access and understand.

Q11: Do you think that our new approach will encourage consumers to read the information?

- 2.15 To help ensure consumers use disclosure material, CP170 proposed requiring:
- firms to draw the consumer’s attention to the importance of reading product information and seeking clarification if they do not understand it; and
 - the use of a question and answer (Q&A) format and plain language.
- 2.16 Most respondents agreed that getting consumers to read product information posed a key challenge but that simplifying documents could help achieve this. However, many considered that our new approach would not enable increased readership on its own as consumer education was equally as important. Others thought that we should undertake more consumer testing of our new approach, especially in an advised situation. Some suggested that documents should clearly highlight to consumers the consequences of not reading the information.

Our response: We agree that improvements to disclosure are one of a number of approaches that can be used to encourage increased readership amongst consumers. We have carried out some additional testing and used the results to inform our proposals in CP06/19 and will look to publish further examples of good practice over the coming months. Other tools we are using include our work on consumer education, financial capability and supervision, particularly of treating customers fairly.

Q12: Do you agree that the proposed brand-style use of the key facts logo will be of value to consumers?

Q13: Do you agree that the incorporation of the FSA logo and regulatory message will be useful to consumers?

2.17 Since we published CP170, the ‘keyfacts’ brand has been introduced for the majority of regulated disclosure documents. We now intend to expand this to investment products. As noted in paragraphs 2.22-2.24 of CP05/12, many respondents were opposed to including the FSA logo as they thought it implied a level of endorsement. However, while we are no longer introducing the QG, we continue to see value in adding the ‘keyfacts’ logo and a regulatory message to the (re-branded) ‘key facts disclosure document’.

Q14: Do you agree with our proposals in relation to the use and number of projections?

2.18 CP170 proposed prescribing a single notional growth rate to illustrate the effects of charges on the performance of a product over time in place of the three rates currently used. It also proposed not including any projections of ‘what you might get back’ in a ‘Key Facts document’, other than for personal pensions and income withdrawals. For targeted investments, it was suggested that firms continue to apply their own assumed growth rate to determine the level of contributions needed to meet a target.

2.19 The majority of respondents favoured a single projection rate. Many also favoured a regular review of the rate to ensure it did not become inappropriate over time.

Our response: We announced in CP06/19 that, for MiFID business, we will be following the MiFID standard for projections. This makes projections voluntary but, when provided, they must be based on reasonable assumptions supported by objective data rather than standardised.

As we also announced in that CP, we are reviewing the non-scope projections regime in the light of that decision and so will take account of these comments as part of that review. However, as noted in our press release of March 2006⁸, there are significant costs associated with changes to the projections regime such as moving to a single rate.

Q15: Do you agree with our proposed inclusion of real terms figures in examples relating to personal pensions?

2.20 Most respondents were in favour of including figures in real terms. However, a few asked for clarification on whether we intended to require real figures for products other than pensions. One respondent thought that the proposed illustrations were too complex, and should just include real figures. Another suggested that the figures be provided on the Statutory Money Purchase Illustration (SMPI) basis.

Our response: We will be considering these comments as part of our non-scope projections review.

8 FSA/PN028/2006 FSA update on investment product disclosure.

Q16: Do respondents agree that further work is needed in relation to the presentation of comparison projections for contracting out of SERPS?

- 2.21 Most respondents favoured further work in this area with one respondent noting that any changes should be supported by consumer research.

Our response: We will be considering these comments as part of our non-scope projections review.

Q17: Do you agree that our revisions to the calculation method for the Reduction in Yield better reflect accepted actuarial practice?

Q18: Do you agree that our revisions will result in a more transparent, consistent and consumer-friendly outcome?

- 2.22 CP170 proposed changes to our rules on how the Reduction in Yield (RIY) is calculated. These clarified that no offset against charges or expenses may be made by the transfer of surplus from non-profit business unless it is to offset the transfers to shareholders' or equivalent retentions.

- 2.23 Most respondents were in favour of this proposal. Some argued, however, that our proposals did not allow mutual life companies to take account of anticipated margins, and so treated mutual life companies according to a different standard.

- 2.24 The majority of respondents agreed that the broader revisions to the calculation method for the RIY would result in a more transparent and consumer-friendly outcome. Some, however, felt that it did not solve the problem that consumers could not understand RIY.

Our response: Research⁹ carried out when we consulted on the Simplified Prospectus (SP) showed that consumers could, in fact, understand the information RIY is designed to show, even when presented alongside Total Expense Ratio (TER).

Even so, we will consider these comments as part of our non-scope projections review, since charges disclosures are closely linked to our projections regime.

Q19: Do you agree that our proposed charges disclosure rules for 'guaranteed' or derivative-backed products offer consumers a useful indication of the cost of such products?

⁹ Consumer Research 34, UCITS: charges disclosure - presenting product charges to customers, by DVL Smith (April 2005).

- 2.25 CP170 set out three options for disclosing charges for ‘guaranteed’ or derivative-backed products:
- firms use the intermediate growth rate for the ‘without charges’ amount;
 - we specify a specific disclosure regime for those products; or
 - ‘guaranteed’ products are treated as deposits for the purposes of disclosing charges.

2.26 Many respondents agreed that any of our options would represent an acceptable means of disclosing the effect of charges for those products and offer a useful indication of the cost of such products. However, some thought that since the benefits are specified precisely for such products, the case for charges disclosure is greatly reduced. It was also commented that the example given was too simplistic: charges should be presented as an annual equivalent calculated using the initial charge and term.

Our response: We will consider these comments as part of our projections review. We are also continuing to monitor product innovations, to ensure charges disclosure requirements remain effective, including for complex or structured products.

Q20: Do you agree that life policies with a term of five years or less should not be exempt from disclosing the effect of charges and expenses?

2.27 Our current disclosure regime does not require firms to disclose either the ‘effect of deductions to date’, or the RIY, for life policies where the term does not exceed five years. To ensure that all products (apart from without-profits policies) disclose their charges, whatever their term, we proposed in CP170 to remove this exemption. Almost all respondents were in favour of this proposal.

Our response: We will be considering this proposal as part of our non-scope projections review.

Q21: Do you agree that a critical yield figure will be useful for consumers considering an income withdrawal plan?

Q22: Is one critical yield figure sufficient, or should the critical yields for annuity purchase at ages 65, 70 and 75 be shown?

Q23: Do you agree with the basis for calculation proposed?

2.28 The majority of respondents agreed that a critical yield figure would be useful. Some emphasised the need for the basis of calculation to be consistent to help comparison.

- 2.29 Some respondents thought one critical figure was enough, while some would take the option to show additional figures on request. Those opposed thought that three figures would be more useful, giving consumers more information about how their position may change over time.
- 2.30 Most respondents agreed with our proposal that the critical yield should be calculated in a similar way to the RIY calculation. A few respondents requested further clarification. One respondent expressed concern that the proposal to use investor specific market rates would result in an increase in the numbers of ‘information gathering’ requests for annuity quotations. Another thought the basis of the annuity calculation should be a Government Actuary’s Department (GAD) rate.

Our response: We consider that critical yield figures can be an effective way of showing the impact of taking a particular income over time and already encourage their use where appropriate. However, we are considering these proposals further as part of our non-scope projections review, and because of a CBA case which showed there was little identifiable benefit for consumers from firms disclosing this information, but significant costs associated.

Q24: Do you agree with the revised timing and content requirements for the suitability letter?

- 2.31 CP170 proposed that firms should give consumers the suitability letter as early as possible following a recommendation. It also proposed that the letter disclose any significant link with other financial services companies and confirms to the customer the cash amount of any commission paid to the adviser.
- 2.32 Most respondents agreed with the revised timing requirements for the suitability letter. Some, however, requested flexibility to include commission disclosure in the ‘Key Facts document’ as the amount of commission paid is not always known when the letter is issued. Some commented that this proposal might lead to costly systems changes.

Our response: CP06/19 sets out revised proposals for suitability letters in the light of MiFID and the reform of COBS. In that CP, we propose to use the relevant MiFID requirements as the nucleus of the new suitability standard for all advice and discretionary portfolio management business currently covered by COB 5.

Q25: Do you agree with our proposal to abolish post-sale confirmatory information?

- 2.33 The majority of respondents agreed that we should remove the requirement to produce post-sale confirmation. Many also commented on the resulting costs savings that would be made.

Our response: In CP06/19, we consult on our proposal to remove the requirement to provide a post-sale KFD.

Q26: Are our proposals in respect of the phased implementation of the new regime proportionate and practicable?

2.34 This has been replaced by our revised proposal in CP06/19 to allow firms 12 months from when the new COB Sourcebook comes into force (so, by 31 October 2008) to run down their stocks of existing documents.

Q27: Do you agree with the proposed application provisions for the new regime?

2.35 Most respondents agreed with the proposed application provisions of the new regime although some thought that experts or market counter-parties may not wish to receive disclosure information about packaged products designed for retail consumers. It was also suggested that the rules do not recognise the way fund supermarkets operate and so compliance may be difficult.

Our response: As we explain in CP06/19, we propose to take forward the current application provisions, making changes so that they are simpler and easier to understand.

Q28: Do you agree with our proposals concerning the overarching disclosure requirements for packaged products?

Q29: Do you agree with our approach to the implementation of the consumer information requirements of the Third Life Directive and the UCITS Directive?

2.36 Most respondents agreed with our proposal to require the disclosure of all information that might be relevant to a consumer's decision whether to invest, with some specifying that this was subject to comments they had made in other questions. However, the range of information that might be relevant to consumers was thought to be very wide and not defined. So, some thought that firms would be cautious and adopt a wider scope, which did not fit well with the 'less is more' philosophy.

Our response: The Third Life Directive (now the Consolidated Life Directive (CLD)) and the UCITS Directive have both been implemented since CP170 was published. CP06/19 sets out how we intend to take these requirements forward: we are proposing moving the SP requirements for operators to the New Collective Investment Schemes Sourcebook (COLL). The current CLD related requirements would be taken forward unchanged.

Q30: Do you agree that key facts should not be combined with other material except in the exceptional circumstances described?

Q31: Do our rules on compendium documents offer sufficient flexibility without risk to consumer understanding?

2.37 CP170 proposed that a 'Key Facts document' must be 'stand alone' unless combining it with another document was necessary to ensure the integrity of the content of a direct offer financial promotion.

2.38 Over half of respondents agreed with this approach. There were indications in some responses, however, that this proposal had been misunderstood as some thought we were forbidding delivering the document with others. A few respondents requested the flexibility to combine the document with the terms and conditions.

2.39 CP170 also proposed to continue allowing firms to combine the 'Key Facts document' for individual funds into one document. Most respondents agreed with this approach.

Our response: We consider it important, as a matter of good practice in helping consumers, for disclosure documents to 'stand out' from general marketing material. However, we propose to maintain the current flexibility.

Q32: Do you agree with our proposals concerning the circumstances in which a key facts document must be provided?

Q33: Do you agree with our proposals concerning product information to be provided in the course of telephone-based transactions?

2.40 Paragraphs 2.40 - 2.41 in CP05/12 provide details of our feedback to the responses to Question 32. In general, respondents agreed with the proposal to carry forward the current requirements and apply these to providing the 'Key Facts document'.

2.41 Most respondents to Question 33 also agreed with the proposals to carry forward the current disclosure requirements for telephone sales and to make necessary adjustments to the oral disclosures required by the Distance Marketing Directive (DMD).

Our response: Our proposed disclosure requirements for distance contracts remain largely unchanged although as part of our reform of COBS, CP06/19 proposes that these requirements be located in a separate chapter of the new COB Sourcebook on distance communications.

Q34: Do you agree with our proposals concerning the front sheet or screen of the key facts document?

Q35: Do you agree with our proposal to limit the extent to which the KFD may show co-branding?

- 2.42 We no longer propose to require a front sheet or screen for disclosure documents.
- 2.43 Paragraphs 2.26 - 2.28 of CP05/12 provide our feedback to the responses to Question 35. Generally, views were mixed with some respondents agreeing with the proposed limit on co-branding and others commenting that this was unnecessarily restrictive.

Our response: In line with our reform of COBS, CP06/19 proposes to simplify our current requirements on branding packaged products. In particular, we are suggesting that when firms produce the 'key facts disclosure document', they must not do or say anything which might cause the identity of the product's producer to be mistaken.

Q36: Do you agree with our proposals concerning the quality of presentation and language of key facts documents?

- 2.44 Responses to this question mainly centred on concerns about the practical difficulties that would be caused by the proposals for the use of web-based 'Key Facts documents' and restrictions on using PDF files. Many respondents expressed support for the proposed plain language requirement, however, it was queried how such a subjective requirement would be monitored and enforced.

Our response: As indicated in CP05/12, we no longer propose to restrict firms' use of PDF files. As noted from our research, consumers prefer simple, easy to understand language rather than documents full of jargon and legal terms. So, we think it is the responsibility of firms to consider the needs of their customers in producing these documents. We will work with trade associations and others to identify examples of good practice. We also intend to undertake a post-implementation review to ensure 'key facts disclosure documents' are becoming consumer-friendly and presented to a high standard.

Q37: Do you agree that the proposed 'Quick Guide' will be a useful tool for consumers?

Q38: Do you agree with other aspects of our proposed new structure of the key facts?

Q39: Have we indicated the required content of the key facts document with sufficient clarity and detail?

Q40: Do you agree with our proposals in respect of the presentation of past performance in key facts documents?

Q41: Do you agree with the proposals relating to the content of the KFD for specific types of product?

- 2.45 The proposals behind Question 40 stemmed from the UCITS Directive which has now been implemented.

- 2.46 The majority of respondents thought the QG would be a useful document and agreed with the concept of a simple document sign-posting to where further detail could be found. However, concerns were voiced about the level of sign-posting proposed as this could result in unnecessary repetition and more documents being produced rather than less. Some commented that the ‘Key Facts document’ did not seem very different to the KFD currently produced.
- 2.47 Many respondents thought the content of the ‘Key Facts document’ was sufficiently clear and detailed. Some, on the other hand, requested either further guidance on the types of information that constituted ‘core’ and ‘supplementary’ or more examples of mocked-up documents. Almost all respondents’, however, were in favour of largely carrying forward the current content requirements for specific types of product.

Our response: In line with our principles-based approach to the reform of COBS, CP06/19 proposes to remove the detailed content requirements and instead suggests a high-level rule that would require firms to think individually about their own products and the information needs of their customers.

Q42: Do you agree with the proposed structure and content of the example?

Q43: Do you agree with our proposal to include a reference to the FSA comparative tables in an example?

Q44: Do you agree with our approach to illustrating the effects of charges on the growth of a product?

- 2.48 CP170 proposed an example focused on the effect of charges table. The content of the example could vary, including, for instance, personal information, prescribed statements for targeted investments, and projections for personal pensions and income withdrawals.
- 2.49 No substantial changes were proposed to the projection basis. However, there were proposals for the information to be included, changes to the columns in the charges table and the presentation and use of real value future annuity income figures for pension products.
- 2.50 There was broad support for the look of the ‘Example’ and reorganising it to make it easier to follow. Some considered there was a lack of consistency in style and layout between the elements of the new pack. Others thought there was not enough clarity around which documents to provide when. Many voiced concerns that there was now an excessive focus on charges. It was argued that a balanced message needs to be given about the rewards as well as the charges for products, and that too great a focus on charges places investment products at a disadvantage compared to deposit-based products.

- 2.51 Some respondents raised concerns about the inclusion of references to comparative tables due to their emphasis on price and cost.

Our response: In the light of the responses to CP170 and further research, we tested a number of different methods of disclosing information about charges. For instance, our research indicated that showing the value of the plan without charges helped consumers ‘read’ the table, and that consumers were more comfortable with monetary figures. However, our analysis showed that the costs of making any changes were very high, and we were not able to demonstrate significantly improved outcomes for consumers.

We consider the existing effect of charges table has some advantages, as it is a technically effective means of demonstrating the potential impact of very different charging structures. It is sensitive to the timing of when charges are taken, and combines a potential range of different charges into a single set of figures.

We will set out our proposals for charges information for packaged products and the wider non-MiFID projections regime in due course.

Q45: Do you agree with our proposed approach to targeted investments?

- 2.52 When working out an appropriate premium level for a targeted investment, firms make their own assumptions, for example, about how they expect the investment to perform net of charges. The premium level chosen may give a final projected fund value which is different to the target, given our prescribed assumptions. In CP170, we proposed that firms inform consumers of their assumptions to clarify the inconsistency. Firms would also need to alert consumers to the importance of monitoring investment progress, so they can take action where necessary.
- 2.53 The majority of the respondents agreed with our proposed approach. One respondent suggested that targeted investments should include specific statements that the target amounts are not guaranteed.

Our response: In line with our principles-based approach to the reform of COBS, we are minded to not impose significant fresh requirements on firms. However, in providing clarity for consumers, we consider it is important they continue to be informed of why a firm thinks a particular contribution or premium level is reasonable for a particular target.

Q46: Do you agree with the circumstances in which we propose to require the inclusion of a projection of the future value of a product (pensions and income withdrawals only)?

- 2.54 We proposed in CP170 that projections of future benefits, including annuity income, should only be included for personal pensions and income withdrawals.

- 2.55 Many respondents agreed with this proposal. However, some considered projections were important for all investment products and so should not be restricted. Some also noted the importance of minimising inconsistencies between pre-sale and post-sale disclosure illustrations, and felt that the proposals did not go far enough.

Our response: We consider the arguments in CP170 retain merit. It can be particularly hard for even numerate investors to understand the impact of charges and accumulated growth under different possible scenarios, particularly for longer term investments. This is compounded by the difficulties many consumers face in understanding the relations between a product's performance profile, reconciling the difference between nominal and inflation adjusted figures, and the choices they may contemplate over particular assets and asset-mixes.

We are considering these issues further as part of our projections review.

Q47: Do you agree that the disclosure of the cost of an immediate annuity is a useful comparator for information about critical yields?

- 2.56 CP170 proposed requiring critical yields to be given for income withdrawal products. These would allow consumers to see the growth needed to achieve the same annuity at retirement as would be achieved by buying an immediate annuity. Almost all respondents favoured this proposal and agreed it would be helpful to consumers.

Our response: We have tested example illustrations with consumers showing both the critical yield required to match an immediate annuity income, and the critical yield required to match the income being withdrawn. Our findings indicate that this information can be informative and helpful for some consumers.

For CBA reasons, however, we are not considering introducing requirements of this kind although we would encourage firms to consider the value of including such information to show the sustainability of proposed income levels over longer terms.

Q48: Do you agree with our proposed changes to the projections regime?

- 2.57 CP170 proposed minor changes to projection calculations. The most significant proposals addressed the presentation of figures, rather than the content (proposals included using a single projection rather than three, reorganising the layout of the 'Example', and adding figures in real terms). New rules were proposed for calculating critical yields on income withdrawals, for contracts where the returns are linked to a stock market index, and for offsetting charges and expenses.

- 2.58 Replies focused on the broader projection disclosure package, in particular using a single projection rate rather than three rates. Most respondents

favoured the changes. Most also agreed that reducing the number of growth rates to one was sensible and that it increased consistency with post-sale material. Presenting figures in ‘today’s money’ was thought useful.

- 2.59 Those respondents who were opposed to the proposals thought they would lead to greater consumer confusion. The measures most criticised were the provisions for stochastic projections and the move to a single projection. It was thought that consumers would place too much reliance on the figure and read it as a guaranteed amount.

Our response: Since publishing CP170, we have considered and tested different methods and layouts for the presentation of projections information. However, we have been unable to find a method that is significantly better than the current regime and does not involve considerable cost.

Although we are not contemplating significant changes in our approach for CBA reasons, we will set out our revised proposals when we consult on our non-scope projections regime. At the same time, we will publish details of the testing we have undertaken since the publication of CP170.

Q49: Do you agree with our estimate of the costs of these proposals? If not, do you have further information that we should take into account in this analysis?

Q50: Do you agree that we have fairly assessed the benefits of our proposals? If not, what considerations should we take into account?

- 2.60 The majority of respondents thought the costs of implementing the CP170 proposals had been significantly underestimated. This was because systems changes and re-design costs would be much higher for most firms.
- 2.61 Almost all respondents disagreed that we had fairly assessed the benefits of our proposals. In particular, they raised concerns that the ‘Key Facts document’ proposed had not, at that point, been tested amongst consumers or advisers. Consequently, it was suggested that we undertake further testing of our proposals and that such testing also look at the impact of our proposals in advised situations.

Our response: We have since undertaken an extensive programme of consumer research, amongst both consumers and advisers (including mock sales), to help develop the revised proposals in CP06/19. A summary of some of this research can be found in CP05/12, Annex 3. We are publishing the rest of our research alongside this FS. To help inform our proposals, we have also undertaken a wide-ranging compliance cost survey amongst a sample of firms to estimate the incremental costs of a number of potential changes to the point of sale investment product disclosure regime. The results of this are also being published separately alongside this FS.

3 Feedback on responses to CP05/12

- 3.1 This chapter sets out the questions we asked in CP05/12 on our proposals for replacing the KFD with a QG, summarises the main responses we received and gives our comments on the issues raised.
- 3.2 As explained in CP06/19, we have decided not to implement the QG as we cannot support changing significant elements of the current regime at this time. So, we do not propose to carry forward our CP05/12 proposals. However, we have identified some important elements of good practice in helping consumers to engage with and understand key disclosure material. We set out some of these points here. We will also be taking forward strands of work with firms and trade bodies to improve product disclosure.

Overview

- 3.3 We received 62 responses to CP05/12, mainly from product providers and trade associations.
- 3.4 Generally, respondents supported the concept of the QG with most considering it to be a welcome step towards simplifying and improving point of sale information for consumers. However, many commented on their difficulty in forming a definitive view before understanding the full impact of MiFID and more principles-based regulation.
- 3.5 The other main points respondents raised were that:
 - there was concern about how the FOS would treat complaints following the introduction of the QG, particularly as the FOS could decide the QG contained insufficient information;
 - clarification was needed on our proposals for when the QG should be provided;
 - our proposals should offer firms more flexibility (i.e. to alter the QG questions and signposts and to determine how the it is provided); and

- our proposals should take effect at the same time as the implementation of MiFID and the new COB Sourcebook.

Summary of responses

Q1: Do you agree with our approach of making the Quick Guide a main point of sale disclosure document?

Q2: Do you agree that the document title should be 'Quick Guide'? If not, what would be a more effective alternative and why?

- 3.6 While most respondents agreed that the QG should be the main disclosure document, almost half of them indicated that they might need to rethink this once they had considered our proposals for the wider disclosure regime. Others did not specifically comment on this point but did raise the concern that we were adding another document to those firms are already required to provide to consumers at the point of sale.
- 3.7 Some respondents requested clarification about where information not in the QG, such as that required by the DMD, the CLD or information about FOS or the Financial Services Compensation Scheme (FSCS), should be located.
- 3.8 Some respondents also expressed the concern that the QG might, potentially, give consumers the misleading impression that it was a complete summary of the product and that, therefore, they need not read any other documentation.
- 3.9 Conversely, others thought the title 'Quick Guide' might lead to the document being dismissed by consumers as not being important information. As a result, we received a variety of suggestions for alternative titles, including: 'Introductory Guide', 'Overview', 'Summary Information' and 'Essential Guide'.

Our response: The proposal was for the QG to replace (rather than be provided in addition to) the current KFD. However, we acknowledge respondents' concerns about the number of documents we require to be given to consumers. The proposals in CP06/19 would result in a reduction in the number of documents we require to be provided.

In reforming the COB rules, we have clarified what documents firms are required to produce and provide. In doing so, we have also sought to simplify our requirements. However, we are constrained by a number of EU Directives which place requirements on the information that must be provided.

Further to the results of our consumer testing, we consider including the 'keyfacts' logo in the 'key facts disclosure document', along with a regulatory message, will help consumers. It will help to convey the importance of these documents and the information contained within them. Requiring firms to include the 'keyfacts' logo would also bring our regime in line with those for the Initial Disclosure Document (IDD), Menu document and mortgages and general insurance disclosure.

Q3: Do you have any comments on our proposal to require the Quick Guide to be placed at the top of the marketing pack?

- 3.10 Most respondents agreed that the logical position for the QG was at the top of the marketing pack. This was because the nature of the document meant it was likely to either be placed here anyway or referred to first. However, it was felt that for mailed offer packs and in-branch promotions, this proposal could cause practical difficulties as a covering letter usually comes first. Flexibility was therefore requested to position the QG according to the particular sales medium used.
- 3.11 Advisers also requested some flexibility around when they should provide the QG to fit with the sales process. Some respondents thought that prescribing this level of detail conflicted with a high-level, principles-based approach to regulation.

Our response: In CP06/19, we do not propose a specific place in the pack for 'key facts disclosure documents'. However, our research suggests consumers prefer short documents that stand out and are easy to navigate. So, prominence is important and firms should make sure that 'key facts disclosure documents' are easily identifiable and noticeable within the overall pack of material.

In CP06/19, we have proposed to adopt the MiFID standard of providing product information in a durable medium and in good time before the client is bound by any agreement. We consider that this high-level approach would address the concerns voiced about the need for flexibility.

Q4: Do you have any comments on our revised proposals for the production of the Quick Guide?

Q5: Do you have any comments on the proposed content of the Quick Guide?

- 3.12 Many respondents, including the Financial Services Consumer Panel, agreed with our proposals for the QG to be presented in a tabular format, using a Q&A approach and including a regulatory message. It was felt that this would be useful and clear for consumers and would facilitate easy comparison. In contrast to the feedback on CP170 (see paragraph 2.17), a few respondents suggested that we should also require firms to include the FSA logo as this would promote consumer confidence. Others considered that the QG should highlight the importance of reading the sign-posted information.
- 3.13 Some respondents queried whether our proposed two-page limit for the QG could result in areas of the QG (for example those on risks and charges) becoming over-simplistic. They thought this particularly likely for complex products where keeping to the page limit would also be especially difficult. Others, including the Association of British Insurers (ABI), queried whether

the proposed ten questions were relevant to all products and requested flexibility to leave out or change the questions where this would improve consumer understanding. A few respondents suggested that we specify a different set of questions for different product types i.e. savings, investments, pensions and protection.

- 3.14 A number of additional questions were suggested, for example, questions on tax, death or retirement. Some respondents asked for more detailed guidance on the types of information we would expect the answers to the questions to cover.
- 3.15 We also received comments about some more practical aspects. In particular, some respondents requested that we do not specify using colour and shading in the QG or using page number references in the sign-posts as this would be costly and impractical where documents are printed off the internet. It was suggested that we should instead provide guidance on these issues or that we require sign-posts to headings in other documents. Other respondents, particularly fund supermarkets, requested that we permit the use of co-branding to avoid misleading consumers.

Our response: We do not propose to require the FSA logo to be included in disclosure documents. We propose in CP06/19, however, to require firms to include the 'keyfacts' logo to help direct consumers to important information.

As explained in CP06/19, we are also no longer proceeding with the QG. In line with our principles-based approach, we also do not propose to limit the length of the 'key facts disclosure document'. However, our research suggests that consumers engage more easily and willingly with short documents and we consider that brevity remains important. Our less prescriptive approach to the content of disclosure documents should provide firms with the flexibility to assess the individual aspects of their own products and provide the most appropriate disclosures. In meeting this, we would expect firms to consider the key information needs of consumers alongside the need for standout, user-friendliness and brevity.

Q6: Do you have any comments on the intended scope of our proposals?

- 3.16 Most respondents reiterated that it was difficult to comment on the scope of our proposals without first seeing the wider disclosure package. Nevertheless, many thought that our proposals should apply to all investment products, including Collective Investment Scheme (CIS) products on the basis that this would create a level-playing field and would avoid customer confusion.
- 3.17 However, some respondents agreed that we should leave the scope of our proposals unchanged. A few commented that our proposals should only cover straightforward products as the risks attendant in summarising complex products would outweigh any benefit.

Our response: We are unable to fully align the requirements for life and non-life products because the relevant Directive requirements (the UCITS Directive and the CLD) place different requirements on firms. CP06/19 therefore proposes to leave the scope of our proposals unchanged from the current regime but to simplify and clarify the application provisions.

Q7: Do you have any comments on the type of transactions that should be covered by our proposals?

- 3.18 Most of those that felt able to comment on this proposal before seeing the wider disclosure package thought that our QG proposals should either cover all transactions or at least should cover the same transactions as the current regime. Many also supported the proposal that execution-only customers be provided with the QG. In general, however, respondents considered that it should be up to firms to decide the information that should be disclosed on variation.

Our response: We do not propose to make any changes to the type of transactions covered by our current regime, except for variations. In CP06/19, we propose moving to a high-level requirement for firms to disclose enough information to enable a customer to understand the consequences of the variation.

Q8: Do you have any comments on our proposals for when the Quick Guide must be provided?

- 3.19 Most respondents agreed with our suggestion in CP05/12 that the timing of delivery of the QG should be aligned with the MiFID requirements once these have been finalised.
- 3.20 Some respondents supported the proposal that the QG should appear prominently on websites. The flexibility to decide whether to use PDF, HTML or XML formats was also welcomed. Amongst other comments we received was the suggestion that our proposals should not hinder auto-enrolment or distance sales.

Our response: We consider that early delivery of disclosure documents is essential to their effectiveness. We also accept that flexibility in our proposals is important to ensuring disclosure documents are delivered at the appropriate time in the decision-making process. Consequently, we are proposing in CP06/19 to adopt the high-level MiFID standard for the timing of delivery of disclosure documents.

Q9: Do you have any comments on our implementation proposals?

- 3.21 In CP05/12, we stated that our initial views were that we should bring the wider disclosure package into effect in 2007 to align with the planned implementation of MiFID and the new COB Sourcebook.

- 3.22 The majority of respondents agreed with this proposal with many adding that it would be too costly to implement all these changes separately. However, a large number of respondents commented that they were unable to form a view without first seeing the wider disclosure package. Some respondents suggested that we await the outcome of work being undertaken on voluntary ISO (International Organization for Standardization) standards and the EU Commission's expected review of the SP requirements before implementing any new disclosure requirements.
- 3.23 It was requested by some that we provide a lengthy transitional period to ease the implementation of a significant number of simultaneous regulatory changes. Suggestions ranged from six months to two years.

Our response: As detailed in CP06/19, we are now proposing to bring our wider disclosure regime into effect on 1 November 2007 to coincide with the planned implementation dates for MiFID and the new COB Sourcebook. We are also proposing to give firms up to one year from that date to include the 'keyfacts' logo and regulatory message in their documents.

List of non-confidential respondents

CP170

Abbey National Group

The Actuarial Profession

AEGON UK

Alba Life

Alliance & Leicester plc

Alliance Trust Savings Limited

Allianz Cornhill

The Association of British Insurers (ABI)

The Association of Independent Financial Advisors (AIFA)

The Association of Investment Trust Companies (AITC)

Association of Private Client Investment Managers and Stockbrokers (APCIMS)

Aqera

The Australian Mutual Provident Society (AMP)

AXA Sun Life

Baxter & Lindley Financial Services Ltd

Beachcroft Wansbroughs Consulting

Bruce & Partners Harpenden

Canada Life

The Children's Mutual

Cofunds Limited
The Consumers' Association
Co-operative Insurance Society Limited (CIS)
Endsleigh Financial Services Ltd
The Financial Ombudsman Service (FOS)
Financial Services Consumer Panel
Fitzrovia International plc
Friends Provident Life and Pensions Limited
FSA Smaller Businesses Practitioner Panel
Hargreaves Landsdown Asset Management Limited
HBOS plc
INVESCO Asset Management
The Investment & Life Assurance Group (ILAG)
Investment Management Association (IMA)
Jarvis Consulting
JPMorgan Fleming Asset Management
Legal & General
Life Insurance Association Ltd
Lincoln Financial Group
The Liverpool Victoria Friendly Society
The M&G Group
Manx Insurance Association (MIA)
Mattioli Woods Pension Consultants
MoneyScience Investment Consultancy
The National Association of Pension Funds Limited (NAPF)
Norwich Union
The Original Holloway Friendly Society Ltd
Pensions Protection Investments Accreditation Board Limited (PPIAB)
The Prudential Assurance Company Ltd (PACL)

Royal London Group
Scottish Widows Plc
Skandia Group
Standard Life Assurance Company
St James's Place
The Society of Pension Consultants
Swiss Life (UK) plc
UK Social Investment Forum (UKSIF)
Virgin Money
WHFIS Limited
Zurich Financial Services

CP05/12

A C Eggleton
AEGON UK
Alberni Independent Financial Advice
Alliance & Leicester plc
Andrew Dickson Limited
Artemis Investment Management Ltd
The Association of British Insurers (ABI)
The Association of Independent Financial Advisors (AIFA)
The Association of Investment Trust Companies (AITC)
The Association of Friendly Societies (AFS)
The Association of Private Client Investment Managers and Stockbrokers
(APCIMS)
Barclays Bank PLC
B&CE
Beckett Investment Management Group Limited
Benson IFA Ltd
Brewin Dolphin Securities Limited

The Children's Mutual
Cofunds Limited
Denholm & Brown
The Direct Marketing Association (UK) Ltd (DMA)
D L Bloomer & Partners
Fidelity Investments International
Financial Services Commission
Financial Services Consumer Panel
Fort Financial Planning Ltd
Friends Provident Life and Pensions Limited
FSA Smaller Businesses Practitioner Panel
Gerry Reilly
G R Associates
The Grosvenor Consultancy
Hargreaves Landsdown Asset Management
HBOS plc
Highclere Financial Services
IFACT Services Limited
Independent Mutual Ltd
The Investment & Life Assurance Group (ILAG)
Investment Management Association (IMA)
Leabold Financial Management Ltd
Legal & General
Lincoln National (UK) PLC
M&G Securities Limited
National Consumer Federation
New Star
Norwest Consultants
Norwich Union

Openwork
Phillip Henke
Pinnacle Insurance plc
The Prudential Assurance Company Ltd (PACL)
Richard Brydon
Scottish Widows Plc
Simple PFS Limited
Skandia Group
Standard Life Assurance Company
St James's Place
Temple Bar IFA Limited
Thomson Gray IFS Ltd
Threadneedle Investment Services Limited
Wetherby Insurance Services
Windsor Life Assurance Company Ltd

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