

BSA'S FINAL RESPONSE TO CP25/17: Targeted Support

General Comments:

The BSA welcomes the opportunity to respond to this consultation, which gives a use case of consumers with significant savings held in cash, and some risk appetite, to consider investing. If Targeted Support is effectively designed and delivered, it could be interesting to many building societies as it would enable them to refer individual members who have high levels of savings to partners if investment might be in those members' interests.

Some building societies already work with advisers and intermediaries to offer financial advice, and a small number have or had their own financial advice subsidiary. The appetite to partner with intermediaries could increase with Targeted Support if it opens up a simple, low risk option so that more societies can offer a wider range of savings and investment options to their members. For that to happen, questions around potential liability and retrospective action/application by the Financial Ombudsman Service ("FOS") would need to be clarified, as described in our response to the Questions.

Questions in CP25/17:

Question 1: Do you have any comments on our proposed 'better outcomes' purpose statement?

Please see our response to Question 2.

Question 2: Do you agree with our use of the term 'better outcomes' rather than 'better position'? Would the choice of terms impact when and how you might expect to deliver targeted support?

We understand the rationale behind using the terminology proposed.

It is notable that there is no expectation that firms would be required to deliver targeted support in order to meet the requirements of the consumer duty. That said, as firms are already required to deliver "good outcomes" under the duty, we have a concern that referencing "better outcomes" has the potential to create an inherent assumption that the "good" outcome that a firm may be achieving (through meeting the requirements of the consumer duty) is not good enough if targeted support could provide a "better" outcome. This is particularly important in the context of any approach to interpretation of the requirements that third parties, such as the FOS, might choose to apply.

On that basis, we consider that the use of “better position” or similar would achieve greater clarity. However, there is still some jeopardy for both firms and consumers in this. One person’s view of what is a good outcome or a better outcome could vary greatly to the next person’s.

In our view, using “better outcomes” might lead to firms considering that they had no choice other than to introduce targeted support (and incur the costs associated with that) to avoid being considered to have failed to achieve a good outcome for their customers.

Question 3: Do you foresee any challenges in meeting the requirements to ensure the suitability of recommendations made through the targeted support framework?

We have a number of points here:

- The FCA states that a key part of targeted support is that firms should communicate that the support is for a group with common characteristics and is not individual advice. We consider that there is still a real risk that consumers may not properly understand what this means in reality. This is particularly important given consumer duty requirements around consumer understanding, and so any support in terms of guidance/worked examples on what might be suitable communication that the FCA could provide would be invaluable.
- We also question the extent of verification/evidence required in relation to what firms have known/deduced about the customers identified as being suitable for targeted support in any particular circumstance. Again, any guidance that can be provided in relation to this would be useful.
- The FCA acknowledges that residual consequential changes will be needed and intends to consult later this year on any consequential changes. We encourage the regulator to do so as soon as possible so as to avoid the risk of uncertainty/duplication/conflicting requirements.
- We note the FCA’s intent that existing guidance on the boundary between the provision of information and guidance on the one hand, and different forms of advice on the other will be reviewed, simplified and consolidated. We are concerned that not only does the FCA say that this will not be done now, but that there is no clear timescale for this being completed. Firms would appreciate clarity and a defined timescale rather than relying on the “how long is a piece of string” approach being proposed, where the FCA has said that it will be more impactful to do this once the boundaries of targeted support are settled.

Question 4: When considering our proposals as a whole, are there any proposed requirements you think we do not need, where we can rely instead on the Consumer Duty? If so, please explain why the additional requirements contained in our proposals are not needed.

No additional comments.

Question 5: Are our proposed rules sufficiently future-proof and outcomes focused to accommodate changes in technology? If not, why not?

No additional comments.

Question 6: Are there any situations where firms want to deliver targeted support but based on our proposed rules would feel unable to do so? Please explain why.

We do not believe there are any.

Question 9: Do you have any other comments on our proposals around pre-defining situations to provide targeted support?

None.

Question 10: Do you agree with our proposal that firms can make reasonable assumptions when designing targeted support journeys? If not, why not? In your answer, please set out examples of assumptions you may choose to make when designing targeted support journeys.

In the context of what this consultation is setting out to achieve, we feel it is appropriate that firms may make reasonable assumptions. However, we also strongly believe that further guidance on what may be reasonable should be developed by the regulator. Not least because of the very wide interpretation of what might be considered reasonable in the context of the FOS.

Question 11: How could firms decide between when to make an assumption and when to pre-define a common characteristic of a consumer segment?

No comment.

Question 12: Do you agree with the rest of our proposals for the design of consumer segments in particular around excluding characteristics and the sufficiently granular principle? If not, what aspects do you consider need to be changed and why?

At point of principle, these proposals seem appropriate. However, we question how readily they may be applied in practice, and the levels of record keeping that would necessarily go alongside their development.

The FCA says that firms will be required to design these at a sufficiently granular level. This should be clarified. What is sufficiently granular may mean different things to different firms or in relation to particular products.

Question 13: Would it be valuable to produce illustrative case studies to support firms in determining whether consumer segments are sufficiently granular? Would our choice to do this impact your intention to deliver targeted support?

Illustrative case studies would not just be valuable. We consider them to be essential in helping firms better understand the parameters within which they should operate. Failure to provide practical and relevant case studies would in our view seriously reduce the likelihood that our members would choose to offer targeted support.

Given the importance of this use case of consumers who are in a position to invest, providing case studies is particularly important because of the questions posed by the FCA in paragraphs 2.57 and 2.59 about assumptions and common

characteristics. The FCA indicates that firms providing Targeted Support could make assumptions about an individual's willingness to take investment risk. This is an area where there would be a high risk to providers of retrospective claims, so regulatory clarity is essential. How any assumptions are disclosed to the consumer is also crucial, and would benefit from further testing. The BSA would welcome the opportunity to provide our input on what might be considered including and excluding characteristics for this case study, and the limits of what might be assumed by firms.

In addition, the FCA's metrics continue to embed the figure of £10,000 in cash savings as an established threshold even though it has never been substantiated. We have raised this concern in previous submissions. This number is based on an implicit mis-understanding of general savings behaviour. It assumes that people need a short-term emergency savings buffer, but beyond that their savings needs are all for the long term, and hence investible. However, many people have valid and important medium-term savings goals on top of this emergency buffer, such as saving for a house deposit, a family event or a wedding, where larger deposits might be required and the individual does not want to take investment risk. We encourage Targeted Support to be based on evidence-based thresholds rather than arbitrary ones, such as in £10,000 cash savings.

Question 14: Do you agree with our proposals around the scope of ready-made suggestions, in particular, our proposal that the targeted support regime only captures support that constitutes a personal recommendation? In your response, please explain whether our proposal impacts how you wish to deliver targeted support to your customers?

We agree. It makes sense that the regime should only cover personal recommendations.

Question 18: Do you agree with our proposal to exclude investments subject to marketing/distribution restrictions from the targeted support proposals, except where a component part of a suitable investment provides exposure to these products? If not, why not?

Yes.

Question 19: If high-risk products were included, what products should be included? How would firms ensure the suitability of suggestions given these suggestions would be designed for consumer segments based on limited data?

We do not comment on this question on the basis that it is not relevant to most of our members.

Question 20: Are there specific situations where firms might hold other information not covered by excluding characteristics that would render ready-made suggestions unsuitable?

No further comment.

Question 21: Do you agree with our proposals for firms handling additional information volunteered by consumers during the targeted support journey?

We understand the rationale for the proposed approach. However, we are concerned that the practical difficulties in the handling of additional information and the impact on the customer journey may be a factor in deterring firms from offering targeted support.

Question 22: Are there any other aspects of our proposed approach to the verification process which you consider need to be changed? Please explain your rationale.

We consider the approach to be reasonable, subject to our comment at Question 21.

Question 23: Do you agree with our intention around leveraging PROD and Consumer Duty to ensure consumer protection and that targeted support services are of high quality?

This makes sense as firms will already be familiar with the requirements under PROD and the Consumer Duty, and these should fit with existing governance arrangements.

Question 24: Do you agree with our proposal on monitoring outcomes and identifying significant adaptations of products? If not, why not?

This seems a natural extension of the requirements of PROD in the context of these proposals and we agree with it. Again, it is broadly aligned with PROD and wider consumer duty requirements in any case.

However, some practical examples would assist in guiding firms on what actions might be considered appropriate in the context of particular products or services.

Question 25: Beyond monitoring outcomes, are there any specific areas, with reference to our draft Handbook proposals, that you wish to provide comments on?

None.

Question 26: Do you agree with the information that we are proposing firms would be required to disclose as part of a targeted support journey? Are there any additional aspects you think firms must disclose, for example, any reasonable assumptions made?

We agree with what is proposed, but consider that there is scope to go further. For example, to require firms to make it clear to the customer that if their circumstances change then the investment may no longer be suitable for them, and what to do in that eventuality.

Question 27: Do you require any further guidance on the use of risk warnings in marketing for mainstream investment products?

See our response to Question 26. We consider that there should be further guidance for firms on what an appropriate warning may be in appropriate circumstances given that these proposals are new and are targeting perhaps a different group of consumers to those that might normally invest in products that could be perceived as carrying a greater level of investment risk than traditional savings accounts.

Question 28: Are there any other aspects of our proposals around communications that you wish to provide comments on?

More examples of circumstances in which it may be particularly appropriate to signpost customers elsewhere could be helpful. The same applies in relation to circumstances where tools and modellers may be considered appropriate.

Question 29: Should we require that every consumer exited from a targeted support journey must be signposted to other forms of support? Or do you agree is it sufficient for firms to consider whether this is appropriate? Are there particular scenarios where this needs to be required?

We consider that this would not be appropriate other than perhaps in very clearly defined circumstances, and perhaps in relation to higher risk products. Additionally, the point at which a customer might be exited from the journey could also be considered a factor in whether or not this might be appropriate. We would suggest that the FCA should monitor this aspect of proposals (and customer reaction to being exited from a journey) and use that to inform whether or not potential future changes to requirements should be used to address any concerns/adverse outcomes that arise from this not being mandated.

Question 30: Do you agree with the proposed framework for costs and charges set out above and in draft rules?

No. We think there is a considerable risk of an adverse impact on competition, and which the FCA has itself clearly acknowledged at paragraph 4.12 of the consultation in the context of its comments around the cost of providing the service for firms.

Question 31: Do you agree with the proposed application of existing Handbook requirements to targeted support? If not, please specify where additional considerations should be taken into account.

We agree with the proposed application of existing requirements.

Question 32: Are there potential risks with Appointed Representatives providing targeted support during the initial stages of the regime? Where risks could arise, please explain how those risks could be mitigated and/or balanced by the potential benefits of Appointed Representatives providing targeted support.

We do not propose to respond to this question on the basis that the consultation has been prepared on the basis that at least initially ARs would not be permitted to offer targeted support.

Question 33: Do you agree with the proposed application of the MiFID business, IDD, and designated investment business regimes to targeted support, including the proposed application of the COBS framework?

It makes sense to apply the stated regimes to targeted support.

Question 36: Does the current prudential framework capture the possible risks from targeted support as a firm scales up its activities?

Yes.

Question 37: Do you believe that a bespoke scalar is required for targeted support, and if so, what metrics should the scalar be based on?

We agree that in addition to the baseline requirement of £500,000, there should be a bespoke scalar in place for any firm which delivers targeted support. This should ensure that its financial resources requirement continues to accurately reflect the specific level of risk related to growing targeted support activity.

A scalar calibrated on a metric relevant to the firm's volume of business such as the FCA's suggestion of referencing the value of transactions or assets invested by clients that can be linked to the provision of targeted support could work.

Question 38: Do you agree with our approach to apply our complaint handling rules and guidance in DISP, including the compulsory jurisdiction of the Financial Ombudsman, to all authorised firms providing targeted support?

This proposal makes most sense at the current time. However, we urge the FCA to ensure that as part of its consultation on review of the redress system, it provides firms with:

- Certainty on how complaints will be assessed by the FOS. Without that, the FCA acknowledges that firms may limit or not offer targeted support. In relation to this:
 - Simply saying that the level of understanding will evolve over time does not provide any certainty whatsoever at least in the period before any changes that may ultimately be made to the address system are introduced.
 - We note the intent that provided that the firm has operated within the targeted support regime, and the consumer has not been misled, the FOS will not expect the firm to have conducted the same fact-finding or suitability process as required when giving a personal recommendation under COBS 9 or 9A. While this is something, it is presumably still the FOS that will be the judge of whether or not a firm has (1) operated within the regime, and (2) not misled the consumer. This does not provide enough certainty in light of FOS's current remit under FSMA.
- Clarity on liability.
- Clear mechanisms of co-operation between the FOS and the FCA, which go beyond what is mooted in the FCA's CP25/22: Modernising the Redress System, and to which the BSA will respond separately.

Without this, we believe that firms will not fully embrace targeted support with the consequential impact on consumers and firms.

Question 39: Do you think that the FCA and the Financial Ombudsman should publish specific guidance setting out how cases about targeted support will be considered?

We think that this will be imperative, certainly until any reforms are made to the current system of complaints handling/redress in UK financial services. Without it, and in the absence of the issues referred to in our response to Question 38 having been addressed, the risk of many firms failing to offer targeted support remains significant in our view.

Question 40: Is anything else needed to give firms and/or consumers sufficient clarity and certainty about how cases regarding targeted support will be handled?

Yes. We believe there should be greater:

- **Speed** in identifying areas on which firms may not be meeting expected standards and speed in communicating this more widely to firms across the sector, not just the particular firm involved in a specific complaint.
- **Transparency** over instances when targeted support is being considered/discussed between the FCA and the FOS, and when it is being dealt with under the wider implications framework.
- **Visibility** where the FCA and the FOS are liaising in relation to matters of interpretation regarding targeted support.

Question 41: Do you agree with the Financial Ombudsman's proposal to (a) exclude pre-regulation activities from the VJ and (b) expand the scope of the VJ to cover activities carried on after regulation day from an EEA or Gibraltar establishment?

Yes to both questions.

Question 42: Do you agree with the proposal to allow FSCS compensation for claims relating to targeted support?

Yes, subject to any comments once we have viewed the FCA's planned FEES consultation due in November 2025.

Question 43: Does the issue of direct marketing rules representing a barrier to targeted support need to be resolved before firms offer targeted support?

While we do not consider that this needs to be resolved in advance, in order for firms to be able to offer targeted support at scale and for them and consumers to properly benefit from it this does need to be addressed very quickly. We question whether firms will be prepared to invest in the changes needed to implement targeted support without certainty on this point.

Question 44: Do you agree with our proposed approach to authorising firms who wish to provide targeted support? Can you suggest any ways in which our approach might be streamlined, whilst retaining the necessary robustness of our gateway?

We agree with the proposed approach and the areas on which the FCA intends to focus as part of the application process.

Question 45: Do you agree with our proposal to not introduce new record keeping requirements which relate directly to the provision and outcomes of targeted support? Please explain the reasons for your answer.

Yes, we believe that firms are already obliged to do this in line with existing regulatory and legislative requirements.

Question 46: How would you assess whether your targeted support service is delivering intended outcomes for consumers?

Use of the data points set out in Section 8.1 should be a good starting point.

Question 49: Do you agree that we should update our guidance on the advice boundary at the same time as we set out perimeter guidance for firms providing targeted support? Which FCA guidance on the boundary should we focus on keeping, reviewing and/or simplifying?

We agree.

Question 50: Do you have any comments on our equality and diversity considerations (see Annex 9)?

No.