Financial Conduct Authority
12 Endeavour Square
London E20 1JN

14 December 2020

AFM Response to FCA call for input on The Consumer Investments Market

1. I am writing in response to this consultation paper, on behalf of the Association of Financial Mutuals. The objectives we seek from our response are to:

   - Comment on some of the issues raised in the call for input; and
   - Explore the implications for the provision of products, as well as guidance and advice.

2. The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not for profit basis). Between them, mutual insurers manage the savings, pensions, protection and healthcare needs of over 30 million people in the UK and Ireland, collect annual premium income of £19.6 billion, and employ nearly 30,000 staff[1].

3. The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, FCA and PRA are required to analyse whether new rules impose any significantly different consequences for mutual businesses[2] and to take account of corporate diversity[3].

[1] ICMIF, https://www.icmif.org/publications/market-insights/market-insights-uk-2016
[2] Financial Services Act 2012, section 138 K: http://www.legislation.gov.uk/ukpga/2012/21/section/24/enacted
[3] http://www.legislation.gov.uk/ukpga/2016/14/section/20/enacted

4. The call for input- and FCA's wider review- offer a timely and important opportunity to assess how affectively the consumer investments market is working, and how well it enables consumers to get a good deal. We fully support the ambitions of the project: our response focuses mainly on the provision of advice. In so doing, we recognise that the provision of suitable retail investments requires the evolution of product disclosure and design rules on the one hand, and clearer regulation around rules relating to advice and guidance on the other.

5. In general terms, a typical investor can confidently and securely access the investment market, as can be seen by the increasing value of the market. There are many investment products that are simple in design and which offer a low cost option to the mass market that is easy to access and good value for money. For such products, standardised 'guidance steps' are sufficient to lead to a valid sale, without the need for a personalised recommendation. Firms are likely to be more confident about creating telephone and online sales models for all consumers, with greater clarity around these standardised guidance steps.

6. Our experience of working with young people, via Child Trust Fund customers, has shown that where there is little understanding of financial investment options, in differentiating between high risk, unauthorised investment (including those that have incomplete disclosure, no FSCS protection, or are potential scams), and more mainstream, lower risk products. The fact that the latter carries an abundance of complicated disclosure materials can inadvertently drive inexperienced investors towards unsuitable, unauthorised schemes. We consider FCA needs to work with the industry to foster an environment where access to mainstream investments is more straightforward, with recognisable guidance that increases consumer confidence.

7. To illustrate, the Key Information Documents are overly technical and providing significant information, some of which is inconsistent and ambiguous. We wrote to FCA in July 2020 about the way PRIIPS regulations have meant that projections in the KID are becoming increasingly volatile in projecting longer-term values. This makes it difficult for advisers to interpret data, and encourages providers to be cautious about the presentation of information, and as a result documentation is made more complex.

8. To date, the impact of regulation, through the RDR and on product design has meant that mainstream investment products have become highly commoditised, and distribution has increasingly focused on intermediation. However, whilst from a conduct regulation perspective this might have de-risked the market in aggregate terms, it has left non-

mainstream products and distribution more marginalised: with greater risk of undersupply, or of consumers exposed to mis-selling if their needs do not fit the standard model.

9. The market can be intimidating and confusing to some consumers: as FCA points out, a lot of work has been previously devoted by regulators to labelling of products, to more clearly describe the risks involved. We encourage FCA to resurrect this work, as traffic lighting has become more widely recognised now in other industries as an effective way of protecting consumers. The simple question consumers should be able to answer before investing in a product is whether they can describe how the product matches their needs, now and in the future. Clearer risk warnings, such as traffic lighting, will support that.

10. The most effective warnings are provided at the point of potentially entering into a transaction and the simple 'guidance steps' should incorporate a requirement to cover the potential for scams, especially through investing in unauthorised investments or through unauthorised firms. Creating a recognisable 'brand' of standardised 'guidance steps' would also help consumers spot an unusual proposition where the familiar safety net would not be present – in other words through normalising the habit of investing in authorised investments for as wide a consumer base as possible, the highly risky unauthorised or scam-like products would be further marginalised. This would be best supported directly by the regulator(s) through issuing standardised expectations/ logos and creating publicity around these expectations.

11. As the document highlights in paragraph 3.7, the focus on the definition of advice versus guidance has been on the regulatory boundary between the two, rather than whether consumers are given sufficient help to make good financial decisions. As we explore above, we would like to see FCA proactively support the introduction of a simple and potentially standardised set of expectations around guidance. This would offer reassurance and confidence to firms who currently avoid the provision of guidance for fear of it being construed as advice.

12. There is no debate on the worth of good value support to consumers, but it remains evident that, many years after the RDR, availability of advice is concentrated in the hands of the most affluent. More action now, to clarify the role of financial guidance, and to give the providers of it more confidence, would be extremely valuable, in increasing the access to guidance, and its capacity to reduce the advice gap.

13. Preserving the value of independent advice is important, but marginalising other forms of support has had a detrimental effect on the capacity of less affluent people in accessing the investment market. For

example, across AFM members, there is a mixed pattern of distribution, with only a small number using only intermediated advice to sell products[4]. Those opting for non-intermediated sales, use a combination of introducers, their own salesforce and other options. It has become increasingly less easy for AFM members to maintain their own salesforce due to increasing cost and complexity of regulation. We would like to see the FCA review explore more thoroughly how different forms of guidance can result in good customer outcomes. This is different to the form of 'pay as you go' advice that FCA suggests in paragraph 3.11, which is not unlike the experience many consumers, other than the very wealthy, receive at present from the full advice system.

14. With regard to the system for compensation, we have regularly highlighted in consultation responses that the current FSCS system is problematic. In our view, the main problems are a failure in supervisory oversight of the intermediary sector: firms are permitted to trade when the past activities of directors indicate they should not; barriers to exit are not sufficient; supervisory intervention is low and inadequate, and capital reserve requirements are insufficient. As a result, instead of FSCS being the last resort for protecting customers, it is too often being drawn on because of a failure in upstream supervision.

15. More generally, for mass market consumers investing in authorised funds, the most meaningful protection available is that provided by the regulation of the funds themselves. If a fund provider or intermediary is distributing these through a simple 'guidance steps' process, there will be very limited liabilities that might fall to the FSCS. Therefore, the current level of disclosure remains appropriate.

16. We would welcome the opportunity to discuss further the issues raised by our response.

[4] To illustrate, in response to CP18/36, we provided the table below:

Channel	Number of AFM members
Only sell through intermediaries	1
Sell direct and through intermediaries	16
Only sell direct/ through introducers	31

Yours sincerely,

Martin Shaw
Chief Executive
Association of Financial Mutuals