

31 October 2024

Consumer Policy and Outcomes

Financial Conduct Authority

12 Endeavour Square

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Submitted by e-mail to: [ReviewOfRequirementsCFI@fca.org.uk](mailto:ReviewOfRequirementsCFI@fca.org.uk)

**RE: FCA’s Call for Input, “Review of FCA requirements following the introduction of the Consumer Duty” (July 2024).**

CFA Institute<sup>1</sup> welcomes the opportunity to comment on the Financial Conduct Authority's (FCA) Call for Input on the review of its requirements following the introduction of the Consumer Duty (the Duty). We applaud the FCA's proactive review, which demonstrates a pragmatic and timely response to addressing the evolving needs of the market.

We are commenting on select aspects of the Call for Input, reflecting on our interest in the promotion of capital markets integrity and investor protection on behalf of our membership of over 190,000 investment professionals globally, of whom 10,000 are located in the UK.

We previously expressed our support for the FCA's development of a comprehensive Consumer Duty, commending the Duty’s focus on strengthening consumer protection and raising standards in the financial services sector ([comment letter](#), 2/2022). As with other consultations, our response has consistently advocated for a comprehensive approach to policy measures – interventions are most effective when considered within a broader context, alongside other relevant developments. We appreciate the FCA’s efforts in adopting a holistic and systemic perspective, and make changes to its other rules in the Handbook, reporting, and website, after evaluating the utility and impact. We are glad to see that this Call for Input is part of a broader review, reflecting a thoughtful and strategic approach to regulatory reform.

We set out below a few comments for consideration.

**Question 1a:** We see overlap between Consumer Duty and

- PROD 3.2 / 3.3

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<sup>1</sup> With offices in Charlottesville, VA; New York; Washington, DC; Brussels; Hong Kong SAR; Mumbai; Beijing; Abu Dhabi; and London, CFA Institute is a global, not-for-profit professional association of more than 190,000 members, as well as 160 member societies around the world. Members include investment analysts, advisers, portfolio managers, and other investment professionals. CFA Institute administers the Chartered Financial Analyst® (CFA®) Program. For more information, visit [www.cfainstitute.org](http://www.cfainstitute.org) or follow us on [LinkedIn](#) and [X](#).

- MiFID Cost & Charges Disclosure (COBS 6.1ZA), ex-ante and ex-post and other MiFID regulations
- Prescriptive disclosures in MCOB
- DISP

**Question 1b:** Overlap and duplication of regulation results in higher costs. In the worst case, the increased costs lead to lower compliance.

**Question 1c:** Overlap that allows providers to choose which regulation they follow gives the consumer less protection because the consumer is unclear about which standard is being used and because the provider's incentive is to apply the standard with the lowest costs.

**Question 3a:** Make permissions and capital adequacy requirements clearer and more consistent. Currently firms with near-identical business models can have markedly different FCA permissions regimes and capital adequacy regimes. Here are a few illustrative examples:

- The forcefit and exclusions created by the overlap between AIF and collective investment schemes, exemplified by PERG 16.5 and arguably redundant after Brexit.
- Although 'making arrangements with a view to transactions in investments' is the wording in the Regulated Activities Order, permission to do so is broad and uninformative when it covers activities as different as those of an introducer and of a corporate finance firm.
- A MiFID corporate finance firm is subject to the MIFIDPRU requirements, whereas a non-MiFID corporate finance firm need only maintain tangible net worth and net assets greater than £10,000 and not hold or control client money.

**Question 4:** Simplifying the retail conduct rules can help meet the strategic objective of making sure relevant markets function well and the three operational objectives (protecting consumers from bad conduct, protecting the integrity of the UK financial system, and promoting effective competition in the interests of consumers).

Our view is that the secondary objective of facilitating the international competitiveness and growth of the UK economy should remain strictly secondary to the FCA's primary objective of protecting investors and markets. We previously shared a publication from CFA Institute "Capital Formation: The Evolving Role of Public and Private Markets"<sup>2</sup> that concluded that integrity and investor protections in public markets should not be compromised in competing for listings. In our opinion the counter measures of disclosure and sponsorship were not sufficient mitigants. We support the simplification of consumer duty regulations in the interests of international competitiveness and the growth of the UK economy, but we would like to stress our concern that simplification should not come at the expense of consumer duty and investor protection.

In addition, we are concerned that every additional difference between UK and EU runs the risk of making it more difficult to bring about financial services collaboration with the EU,

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<sup>2</sup> The publication can be viewed here: <https://rpc.cfainstitute.org/en/policy/positions/capital-formation>  
CFA UK referred to it in 'CFA UK letter in response to the FCA's Consultation Paper: "Primary Markets Effectiveness Review- Feedback to CP23/31 and detailed proposals for listing rules reforms"'.

since the EU insists that the greater the exposure to a third country's market, the closer the alignment must be between its laws and those of the EU for there to be collaboration. EU financial service regulation is process-based, not outcome-based. Further steps towards the outcomes-based regulation epitomised by the Consumer Duty may make that collaboration harder to achieve.

**Questions 6:** The FCA can enable firms to focus on reporting information and data that regulators can leverage to safeguard investors and markets. This is particularly important for small firms, which often face proportionality challenges. As pointed out in our previous letter, we remain concerned about the capacity of small firms (comprising 97% of the 51,000 regulated firms) to fully and effectively implement these reforms within the budgetary constraints outlined in the Cost Benefit Analysis (CBA). Streamlining regulations can alleviate the regulatory burden on these firms, empowering them to prioritize serving their consumers.

We strongly support a one-year post-implementation analysis of the costs and benefits of each FCA Policy Statement (PS) to enable more accurate Cost Benefit Analysis of future changes.

### **Concluding Remarks**

Market conduct and trust are fundamental to the mission of CFA Institute. As the UK increasingly relies on defined benefit pensions as a primary retirement income source, a dual-focused perspective is needed when deciding best support for pension consumers. While the consolidation of rules into a single rulebook offers potential benefits, it's essential to maintain a delicate equilibrium between the FCA's primary objective of protecting investors and markets, and its secondary objective of supporting the UK's economic competitiveness.

We encourage open communication and collaboration between regulators and market participants to ensure a seamless implementation of the Consumer Duty, including any necessary adjustments arising from this review.

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Thank you for your consideration of our views and perspectives. We would welcome the opportunity to meet with you to provide more details. If you have any questions or seek further elaboration of our views, please contact Mr. Olivier Fines, Head of Advocacy and Policy Research at CFA Institute, at [olivier.fines@cfainstitute.org](mailto:olivier.fines@cfainstitute.org).

Sincerely,



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With thanks for contributions from *Natalie Schoon*, a member of CFA Society of the United Kingdom.