Introduction:

This document contains responses to the questions posed by the FCA within the Discussion Paper DP24/3 Pensions: Adapting our requirements for a changing market. These responses are provided by Enhance Support Solutions Limited, a specialist consultancy providing regulatory and technical support to administrators of personal pension and small self-administered schemes. Our clients range from 'bespoke' SIPP providers through to Fintech based 'direct-to-consumer, ready-made' SIPP propositions.

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Enhance Support Solutions Limited
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Responses:

Q1: What are your views on whether, and if so how, our rules should change to allow consumers to benefit from engaging digital tools and modellers with sufficient protections from the risks associated with projections? We invite stakeholders to respond using the prompts suggested throughout Chapter 3.

Context:
We note that at para 3.6 of the DP does not include a review of the projection framework more broadly and accepting this review primarily focuses on 'tools and modellers' ("tools") our view is that the underlying principles outlined by the FCA apply to pension projections across the board. The current pensions illustrations landscape is complicated and inconsistent, with the Financial Reporting Council's ("FRC") rules for SMPIs being inconsistent with the FCA rules for key features illustrations. Whilst well meaning, we suspect that many consumers (as well as industry professionals) struggle to understand the myriad of complicated text and figures that accompany a standard pension illustration, especially one relating to the taking of benefits. Consequently, we think this Discussion Paper ("DP") is both welcome and long overdue, on the basis that the current landscape contributes to consumer harm through presenting important information in a complicated manner which leads to consumer disengagement. Many key features illustrations run to many pages, meaning the important stuff, such as 'what will my pot be at retirement' and 'when will my money run out', gets lost. Consequently, the current pensions projection regime is not fit for purpose and requires an overhaul. The various tools offer a fresh alternative to the traditional illustration model which leads to better engagement. We are sure that the firms who offer such tools can provide compelling data that supports usage and consumer engagement. This is especially so in providing information to a consumer in an understandable manner which answers key questions around how much to (ideally) fund a pension plan; and, how long income will likely last.

Discussion points at 3.17:
We therefore agree with the FCA's summation at para 3.16. In particular:

- While there is a perceived benefit to seeing a low, middle and high projection rate, the reality is that three sets of projections simply increase the range of numbers leading to a visually confusing presentation which is then confused further through showing the effect of inflation (leading in some cases to negative projections at the lower end), plus further projection rates linked to the underlying investment (i.e., cash, property or investment portfolio).
- As highlighted by the FCA, further projection variants are potentially introduced within the SMPIs working to the FRC's rules. In presentation terms, the SMPI is perhaps easier for a member to understand, however while well-intentioned, linking projection rates to volatility was a retrograde move by the FRC, leading to further inconsistency on projection rates. There was overwhelming industry opposition to the FRC's projection rate rule-change and this is perhaps an opportunity to equalise the rules between the FRA and FCA.

We are not a technology provider so cannot comment on the impact of AI to providing projections within tools, other than to say that based on the existing range tools, we can see that consumer engagement is typically easy with the ability for the individual to set variable parameters such as benefit date and contribution levels. Where we can perhaps see the value in technology, possibly AI-driven, is the ability for backward looking tools whereby, for example, consumers could be presented with historic information that, for example, compares the projection rate selected by the consumer (if such a self-selection was granted) to compare what actually happened over a similar period historically. This means if a consumer selects a 5% growth rate over 30-years based on a global equity-based fund, the projection could include additional information that confirms that the typical fund performance based on a benchmark, has been say, 4% and UK inflation has been say 2.5%. We see this as supplemental information that could be selected, rather than being per se a required part of the projection. In other words, such information would be available for context, should the consumer be curious to know more. Similarly, AI tools could assist with enabling customers to see how they can achieve their target income through applying different factors/variables e.g., delay taking benefits, change investment, increase contributions et al. The existing framework is currently rigid so such variables tricky to achieve, for example, the current regime requires that rates of return are fixed and rules require customer to provide a date of retirement, rather than being able to vary this.

Discussion points at 3.23:

We broadly agree with the consumer harms identified at para 3.19. We think these are easily addressed through the FCA laying down some parameters that underpin the various tools. Such parameters could include baseline growth projections and inflation assumptions. There could be a practitioner committee who, together with the FCA, reviews the underlying parameters annually.

We note at para 3.21 that this seems to suggest that TPR's standards are not offering consumer protection in the same way the FCA does. Consumers do not care a jot which pension is regulated by whom. Consistency is key and therefore proposals such as these should apply across the board to pensions generally, rather than a regulatory carve-out which serves no purpose. This should therefore be a joint initiative for money-purchase

schemes; and, where applicable, there should be consistencies in the presentation of information across DB and DC schemes.

When the FCA look at tools across different providers, we suspect that most demonstrably fall within the FCA's expectations of good practice. Stemming from this, we feel certain that the FCA will also have in mind examples of poor practice, which should be able to be called out fairly easily.

<u>Discussion points at 3.26:</u>
If we have understood the thrust of this DP, our understanding is that the FCA's intention is to carve out pension tools and modelling from the key features rules, in particular the annexes at COBS 13. We think this is a mistake insofar that a key features illustration should be a baseline, static output from a tool. In other words, if a new member receives a key features illustration, this should reflect a snapshot of the starting point of a 'tool', using the same underlying parameters. To avoid there being a disconnect between the COBS 13 projection rate framework, we think that there should be some underlying basic parameters reflected in the tool assumptions. Otherwise, there is a risk of a free-for-all leading to inconsistencies. As mentioned previously, the underlying parameters should be present not just in FCA rules, but reflected in FRC and TPR guidance/rules. Our limited experience of the range of tools used suggests that factors such as projection rates and inflation are already consistent – based on COBS 13 parameters – hence we think that those firms who provide pension tools will not object to some underpinning consistent rates. As already touched upon, we think the benefit of such tools comes from consumers being able to alter matters such as contribution rates, income targets and benefit dates (and possibly projection rates, subject to caveats that the consumer is deviating from the norm). Subject to baseline parameters, it should be left to the industry to innovate how information is presented, not the regulators. The FCA can then periodically review these tools measured against the Consumer Duty principles.

Q2: What are your views on our DC pension transfers and consolidation discussion in Chapter 4? We invite stakeholders to respond using the prompts suggested throughout Chapter 4.

As we are not a pension provider, we do not have the practical experience that some of the feedback prompts are looking for within this section. That said, our observations to some of the points raised are as follows.

<u>Discussion points at 4.19:</u>
Intuitively, an incentive in the form of a cash-back (or similar) seems the wrong motivation to cause an individual to transfer. However, we suspect that many of these incentivised transfers are at the lower value end of the spectrum (e.g., sub-£30k) and for non-advised, previously disengaged members. Therefore, if an incentive is the catalyst for a pension member taking action, then we see limited harm in offering such an investment. In an ideal world, transfers would be motivated by purely pension reasons, however if we are in an environment where pension savers are disengaged then maybe a small incentive to facilitate that engagement can be justified, especially if at least part of that consumer's engagement with their pension continues.

It is also our view that where such incentives, in whatever form, are responsible and proportionate, then the benefit of engagement outweighs the risk. Clearly, 'responsible' and 'proportionate' would require defining, whether this be through the general principles of Consumer Duty, or a more prescriptive code of conduct. It is also our unsubstantiated view that many of the larger pension consolidators, who may offer an incentive as part of their marketing strategy, provide good resources in terms of background awareness and education around pensions, along with app-based tools that do help facilitate the continued engagement with the member's pension.

Discussion points at 4.23:
Generally speaking, we are of the view that the customer disclosure as set within the overall FCA rules – such as the key features documentation – sets out a pretty good overview of the receiving scheme's product. We do agree that there is scope for industry collaboration to minimise the risk of poor consumer outcomes. These could include *inter alia*:

- A standardised info-pack that explains in very clear succinct terms what is involved in a transfer and some of the features that could be lost on transfer. This would be available to all consumers.
- The features would include a standard set of guaranteed type features, where the loss of such features could lead to a poor customer outcome. The definitions and explanations would be agreed standard narrative (where possible).
- Based on the above, the ceding scheme would be responsible for highlighting any of the features that their particular scheme includes. For example, a guaranteed annuity would be explained clearly in the generic info-sheet and then the customer-specific sheet would say 'you have a [guaranteed annuity (with details i.e., from at age-65 etc.), or whichever] which will be lost on transfer'. In effect this becomes a personalised risk warning, or if there are no guarantee-type features, then the document will say 'you have none of these'. This could be via some form of infographic.

The idea of the above would be to agree a common form of words and features that can be used across the industry. The above would be issued by the ceding scheme, on the basis they know what applies and what doesn't to a particular member. [The existing deployment of the Transfer Regs. 2021 would still apply, so an additional safeguard of a PensionWise appointment in certain circumstances would still apply.]

If such a process or something similar were to be adopted, the FCA would add valuable input and the Handbook rules could be amended to reflect the industry agreed process. Our view is that when it comes to implementing process and client communications, the FCA has a poor track-record (i.e., the pre-accumulation cash-warning regime, which is a bizarre process) and therefore that such a process should be driven by the relevant industry sectors, with final 'approval' by the FCA. We think the industry can be trusted to come up with such a process, which can then be regulated by the existing regulatory tools available to the FCA and TPR.

The other point we would add is the transfer-related cancellation notice ("CN") regime requires an overhaul. The way it is currently written is absurd and offers virtually no protection for those transferees who have a change of heart. As matters stand, many FCA-regulated firms issue the CN upon receipt of the transfer. Given most ceding schemes won't accept back the transfer, this CN merely translates to a request to transfer to an alternative receiving scheme, which cannot be the original intention of the cancellation rules. As an alternative proposal, linked to the standardised info-pack referred to above, could the following options be offered to a consumer at the point the ceding scheme receives a request to transfer:

1. I'm unsure and need some more thinking time – this could trigger access to either a helpline facility or a PensionWise type appointment. The transfer would be paused until the customer confirms they understand and either want to transfer or not.
2. Having read the info-sheet I want to cancel the transfer.
3. I'm completely okay with all this, so crack-on.

It could be that rather than 30-days, a shorter period could be provided – say 10-days – so that this doesn't languish and add to delays. This means that either the transfer is delayed fir 10-days in the event of nothing being heard from the transferring member; or, if the member does respond sooner, then the appropriate action is taken, including proceeding with the transfer if (3) is selected. While this could increase pension transfer times, we think this would be appropriate friction. It could be that a slighter tighter regime could apply to DB-transfers given the additional complexity, although of course these typically will be done with advice.

Q3: What are your views on the spectrum of SIPP products available, ensuring they are offered to the right consumers and the differing support needs of consumers across the range of SIPP products? We invite stakeholders to respond using the prompts suggested in paragraphs 5.14 to 5.18.

<u>Discussion prompt at 5.14:</u>
We think the FCA has made a reasonable fist of summarising the spectrum of types of SIPP product however in our experience very few SIPP providers allow investment into non-standard assets. Rather, providers of 'bespoke' SIPPs will tend to focus on SIPP wrappers that allow access to discretionary investment managers (or similar types of portfolios that are restricted to standard assets per IFPRU 5.9.1R). We also think it is wrong to categorise commercial property as a non-standard asset in this context, especially as provisions were made to carve out commercial property from being a non-standard asset in Handbook Notice 28, which led to amendments to IPRU(INV) 5.2.3(4A), now IPRU-INV 5.4.11G (2)(c).

The fundamental issue is that the term SIPP has become all encompassing. As initially envisaged when SIPPs were created by the Finance Act 1989, the pension wrapper was designed to be a niche product that would appeal to those who truly wanted to take control of their pension investments, initially (pre-Finance Act 2004) working to a HMRC permitted investment list. This was broadly still the concept, minus the HMRC permitted list, when SIPP operators first became regulated by the FSA in April 2007. We think since then the market has developed as described by the FCA, particularly with a growth in the 'simple' and 'ready-

made' SIPP space. The 'ready-made' SIPP is a long way from a bespoke SIPP with typically quite different target markets and fee structures. Given the diversity of a product that falls within the FCA Glossary definition of a 'SIPP', we wonder if there is scope to revisit what a 'SIPP' actually is and what distinguishes it from a 'personal pension scheme' as we think the distinction has become blurred over the years. Indeed, even within this DP, the paragraph immediately after the discussion prompts [para 5.15] introduces yet another term – a 'full SIPP', which we presume means a 'bespoke' SIPP when applying the earlier descriptions. If the FCA describe SIPPs in at least four different ways, what chance has a customer of understanding the terminology?

<u>Discussion prompt at 5.17:</u>
In our experience, most firms have made reasonable efforts to define target market. The target market will reflect multiple factors depending on the pension model. Below are examples of how firms have defined target market, along with some of the challenges. For the purposes of distinguishing different types of SIPP, we have used the same labels as adopted by the FCA.

- Bespoke SIPP – we have seen firms be quite particular in detailing that the target market here will be members who wish to diversify their investments across a number of investments. This will often include property, which will also often be the sole investment type. [By property, we mean directly held UK commercial property, often but not always leased to a connected-party tenant.] Many firms will impose an ideal minimum fund size which is linked to the fixed administration fees, such that the fees do not render the SIPP uneconomical. These types of Bespoke SIPPs tend to have a higher degree of personalised service, where advisers of members can speak directly and easily with an administrator who will both know the member's circumstances and can answer questions to a high technical standard. Call centres and chatrooms do not feature in these firms and some members/advisers value this highly and are prepared to pay a premium SIPP administration fee for that enhanced service. This means that while the algorithm says that a particular member may fall outwith the baseline target market and/or fund size, within reason (which is accepted needs to be applied sensibly) a customer may be happy to pay the premium fee for the personalised service. It may also be the case that a number of SIPP members effectively pool funds in order to purchase a property – these will be connected by family and/or business – and one SIPP member may have less funds than the others, thereby meaning a smaller percentage ownership of the property. However, owning part of the property will be an overriding objective of that customer. We often see smaller Bespoke SIPPs where the SIPP is building value through further inputs whether these be contributions, transfers-in or rent. There is usually some form of rationale held by the firm where a customer is outwith the target market (i.e., employer contribution of £150k to be made next month). We do see that most firms do monitor their Bespoke (or Full) SIPPs to ensure that the SIPP overall remains appropriate for the member – for example, where a property is sold (or never purchased) then we often see firms suggest to members and/or their advisers that a cheaper alternative, such as a Simple SIPP, may be more appropriate. Bespoke SIPPs will be both advised and non-advised – for example, FCA regulated financial advisers are not commercial property experts, so other than maybe

explaining the tax mechanism and possibly selecting a SIPP provider, the adviser role is limited. The point is that a target market description for a Bespoke SIPP is going to be reasonably simple insofar it will often be someone who is advised or non-advised and who is looking to invest in a range of investments (i.e., more than one) – and providers will often specify commercial property as a standalone investment – typically with a specified minimum fund size. While these factors tend to drive the demographic, age per se is not a barrier because someone in their twenties could just as easily meet this description as someone in their 50s.

- Simple SIPP – given the SIPP fees are usually less than the Bespoke SIPP fees, we tend to see similar target market considerations applied as the Bespoke above, however calibrated to the lower fees which sometimes leads to a lower minimum fund size. Much the same considerations apply to those cases that fall outwith the baseline requirements (usually fund size). Furthermore, we have seen firms undertake benchmarking exercises where the annual performance of a sample of member's funds will be matched to a general index in order to check that the returns are broadly in line, or specifically, that members are not significantly underperforming.
- Ready-made SIPP – as these types of pension administration fees are included within an overall percentage fee of the underlying fund, the minimum fee/fund size calculation is less relevant. This means that subject to a minimum and possibly maximum age the target market is wide insofar that it is anyone who wishes to be less involved with the day-to-day management of their pension. These are typically non-advised clients because their accumulated pensions are not large enough to justify paying an advice fee. Having said that this target market wishes to be less involved with the management of their pension, this does not mean they are disengaged – our experience with these types of providers is that they offer app-based access to the fund, meaning that members can be connected to their pension if they wish. In short, such members are probably more connected with their pension than if they had left it languishing in an old fund. We are not sure how granular this type of target market statement should or can be. We think that in many cases, members may outgrow this sort of SIPP, as their wealth and experience grow, meaning that they may want more diverse investment options and/or advice. That said, we also think that due to the technology and connectivity that supports the member, they could just as easily leave their funds in such a SIPP and still achieve a good outcome.

We are aware that the FCA expressed concerns about the granularity of target market statements and we are unsure what the FCA means by this. Some examples of good and poor practice within the pension sector would be helpful to add some context to this. Our view is that in the main, firms have set out a clear target market for the three SIPP-types described and furthermore are reasonably good at pointing out to customers where they may be in the wrong product. [It should be remembered that many SIPP members in Bespoke and Simple SIPPs are advised, meaning that the adviser should be both aware of SIPP product variants and will be cognisant of the member's overall financial circumstances.]

<u>Discussion prompt at 5.18:</u>
We have already commented on the fact there is a plethora of different product descriptions under the headline banner of a 'SIPP'. This has become confusing. We think the market has

settled, broadly speaking, into the categories described in this DP. That said, we are not sure that 'Streamlined' or 'Simple' or 'Ready-made' SIPP is a good title for each variant as neither describe to a typical customer what it is. We think a 'Bespoke' (or Member-directed') pension works as a description or label that a typical consumer would understand.

We think that something along the lines of a 'Standard/Simple Investment' pension maybe works for the middle category as does a 'Self-select' pension for a platform/self-dealing pension. We think the final category could simply be called a 'Pre-select' pension. We are sure that others will have far better labels for the various product iterations – the important thing is that ideally the terminology should be common and the label should be clear to reflect what the pension does. It might also be the case that the pensions sector can agree a common information sheet and/or key features document insertion that sets out what one is paying for, in other words:

- A Bespoke pension costs you more but you have greatest investment choice and more personalised administration.
- A Standard Investment pension usually costs less than a Bespoke pension and while you will have a wide choice of investment, you will need to stick to things like regulated funds and listed shares.
- A Pre-select pension is usually the cheapest option however the investment choice will be limited to funds selected by the pension provider.

Throughout the pensions sector, customer education is key, especially as the pensions landscape has become so complicated. We suspect that this may be part-addressed through some of the digital tools and modellers covered earlier. It is also the case that there remains a market for all three of the SIPP products (under whatever name) however the Bespoke pension will always be more labour-intensive to operate due to the additional complexity, such as administering commercial property, compared to the Ready-made/Pre-select SIPP where many members can be administered with a lower staff base. Online access should be encouraged – we think that where there is an app in someone's face every day, they are more likely to engage with their pension. This means that the overlong and overly complicated disclosure regime should be reviewed in order to provide more effective communications to members. We agree that cash warnings and pre-retirement information is important, however there must be a simpler, more effective way of communicating some of these messages.

Q4: What are your views on setting out the due diligence obligations that already apply to SIPP operators in more detailed Handbook rules? We invite stakeholders to respond using the prompts suggested under paragraph 5.29.

Discussion prompt at 5.29:
This section is at least 15 years too late. The regulator had plenty of opportunities to intervene around 2009/10/11 on what was then becoming a trend of esoteric investments being accepted into SIPPs, yet failed to act. This is not to absolve the SIPP sector of blame, however there were plenty of actors aside from relatively newly regulated SIPP firms who were involved with or having an interest in the marketing of esoteric assets and one of those actors was the FSA who could/should have done more.

Since around 2013 when FG13/8 was published and latterly the introduction of the financial resource rules which introduced the capital surcharge for holding non-standard assets, as mentioned previously, most SIPP firms have completely stopped accepting anything that resembles an NSA, save for Fixed-term bank deposit accounts. Paras 5.21 to 5.27 while maybe applicable up to around 10-12 years ago are not in our view reflective now. The days of dodgy overseas investments and unscrupulous, unregulated introducers are a thing of the past. Typically, now, the distribution chain is fully FCA authorised with advisers and investment managers. While it can be argued with hindsight that due diligence on NSAs fell short in the past, these days SIPP operators are, subject to a few exceptions that we think will be known to the FCA, sticking with standard assets managed by FCA regulated investment managers with assets held in FCA regulated custodians.

We have concerns about the proposals at paras 5.28 and 5.29. Firstly, it would be helpful if the FCA could be more specific in setting out a 2025 risk rather than a 2010 risk in order to understand what more prescriptive rules are aiming to achieve. It almost feels like the SIPP market is being asked to pseudo regulate the discretionary investment market; rather, it must be in the FCA's purview to ensure that discretionary investment/fund managers ("DIMs"," DFMs") can also play their part in protecting customers. Consequently, if the FCA does set out more detailed Handbook rules, then such rules also need to involve and apply to DIMs as well. Any such rules also need to be proportionate. For example, it is often not practical for a SIPP operator to monitor what will be 1000s of lines of data within a managed portfolio to check whether a particular stock has delisted or a fund suspended. While some investment managers can provide data which will identify holdings that have become illiquid, many do not and will not until regulatory pressure is brought to bear. In short, often a SIPP operator is having to sift through data from an imperfect source insofar the DIM does not or is unable to consolidate data. By way of examples, some DIMs can and will identify standard and NSAs within their portfolio valuations with a designation along the lines of S/NS so that it is easy to identify the non-standard assets; and/or, will supply consolidated data in a way that can be exported to a spreadsheet that contains all the SIPP Operator's holdings, sometimes with NSAs already flagged. Clearly it easier and better for a SIPP operator to periodically check consolidated data for all its members who hold portfolios with a particular DIM than to check a sample of quarterly valuations. That said, surely the best person to check for illiquid assets is the investment manager as they will know their holdings far better than a SIPP operator. Furthermore, we understand that some DIMs are able to deploy software that can track the trading history of such funds. It is also the case that many SIPP operators attempt to enter into terms with the DIM whereby *inter alia* the DIM undertakes not to purchase NSAs and to inform the SIPP operator if a standard asset become non-standard through a suspension or delisting. Some DIMs enter into these undertakings and others do not.

Of course, one could contend that if a DIM can't provide consolidated lists of assets or won't enter into agreements, then the SIPP operator shouldn't transact with them. However, just because a DIM can't/won't do this does not of itself mean they are a 'bad' DIM or that they will seek to hold NSAs. Rather, they often are smaller DIMs with lack of resource themselves to implement software; or, they are very large DIMs whose legal departments do not like one-off agreements with third-parties. Plus, existing clients will hold portfolios across a

range of DIMs so ask them or their advisers to switch simply based on these matters is unfair.

As already mentioned, if the Handbook rules are to be updated, they should read-across to the DIMs (and possibly self-dealing platforms) as well, possibly in the form of guidance that sets out a best-practice. This could include aspects such as:

- A DIM being required to communicate to the underlying member and the SIPP operator where an investment that previously was 'standard' becomes non-standard – this perhaps within say, four-weeks of the illiquidity/valuation issue being first flagged.
- As part of a DIM's systems & controls, there should be the ability to readily identify which assets are standard or non-standard.
- Linked to the above, DIMs – and particularly any self-dealing platform – should have controls in place to block the purchase of any asset defined as an NSA (based on the FCA's definition). SIPP operators should be able to reasonably rely on this.
- On a quarterly basis, SIPP operators should obtain from a DIM (subject to the DIM's systems & controls above) a consolidated list of the SIPP operator's holdings with the DIM – this list could be restricted purely to those that are NSAs, or a wider list that can be easily filtered to show the NSAs. This will then feed into the SIPP operator's capital adequacy calculations.
- Only where a DIM has insufficient systems & controls to monitor underlying assets, or where NSAs are envisaged as part of an investment strategy, should enhanced due diligence be undertaken by the SIPP operator. This diligence would include understanding the types of investment envisaged, the costs involved, the percentage of the portfolio to be invested in NSAs and the rationale for why NSAs are being selected over standard assets. Alongside this would be the usual Companies House checks, FCA register check and Google checks to ensure there is no obvious adverse indicators (which in our experience, there rarely is at the inception of a business relationship). This due diligence would extend to other parties involved such as introducers (who we would expect these days to be regulated advisers) and possibly custodians or counter-parties where applicable.
- In practice, we think the most likely NSA to be held will be either derivative based assets or specialist funds which for whatever reason are not regulated collective investment schemes.
- Excluded from the due diligence requirements above would be companies set up to hold a commercial property on behalf of the member(s)/SIPP trustee. [Some firms do this as a way of mitigating any liability contagion arising from the property.]
- Also excluded from these requirements would be any PRA/FCA regulated fixed term deposit accounts that would otherwise fall as a non-standard asset.

We do wonder whether alongside any FCA Rules or Guidance there is scope for a Code of Good Practice to be developed for undertaking due diligence on introducers and investments, including DIMs. The reason for suggesting this is that much the same matters could also read-across to the SSAS market. We have seen the Pension Ombudsman's decision on the Rowanmoor complaint that talked about professional trustee fiduciary duty, so rather than having pension providers generally having to guess and hope what due

diligence they have done is enough, a more codified approach may be helpful. We have seen the success and value of the Pension Scams Industry Group's code of practice of pension transfer diligence, and we think something similar could be applied here, whereby all parties including TPR and the FCA could form a workable solution that would apply to SIPP and SSAS.

Q5: What are your views on our proposal for a more prescriptive approach to be applied across all SIPP operators in relation to the arrangements in place for pension scheme monies? We invite stakeholders to respond using the prompts suggested under paragraph 5.44.

Context:
In our experience, all types of SIPP operator undertake regular and accurate reconciliations of pension scheme monies, typically held within bank accounts in the name of the trustee. This includes a combination of:

- Individual member bank accounts through which all transactions for that member flow. These can be separate individual bank accounts or 'virtual' bank accounts operated under the umbrella trustee account operated by the bank. In each case, the member bank account is identifiable by an account number, as are the transactions.

Reconciliation:
Most firms will receive a daily bank feed which will match both the individual member balance – many accounts tend to have a static balance as funds will be invested elsewhere – and the transactions. These transactions will either be expected – regular contributions, rent payments, known transfers et al; or, unexpected such as an ad-hoc contribution initiated by the member, or an accretion from a previous transfer. Most balances and transactions match meaning that exceptions are usually low. Such exceptions are investigated by the admin team and are usually resolved within 24-hours. The transactions are posted within the bank records part of the firm's pension admin system.

- Pooled member bank accounts whereby all member transactions flow through one or maybe two bank account(s) – for example, there may be a funds-in and funds-out bank account.

Reconciliation:
The reconciliation process is broadly similar to that described above with the systems matching most transactions. This type of approach is often deployed where there is not an expectation that the member will hold cash within their SIPP – for example this is more likely to apply to a Simple or Ready-made SIPP where member funds are swept daily into the member's investment. As with the above reconciliation, the process ensures that the expected balance matches the bank balance.

- Pooled 'control' accounts – these will be used for items such as relief at source receipts from HMRC for onward distribution to members; and, PAYE from members for onward distribution to HMRC. These types of accounts are pretty straightforward insofar that on a monthly basis, £X comes in and £X is distributed, meaning that the 'run-through' balance will typically be £nil. These are subject to reconciliation methods as described previously, albeit this maybe monthly on the basis that, for

example, relief at source is typically paid by HMRC around the 21st monthly and that is distributed within 24-hours (said individual amounts then being picked up in the member bank account reconciliation described above0.

The point of the above is that in practice we generally do not recognise the concerns set out by the FCA within paras 5.30 to 5.36. Instead, our concern is that the FCA has taken its experience from probably one high profile failure and has extrapolated the problems encountered there across to the SIPP sector as a whole. As mentioned, we do not agree that in general these concerns are manifesting. Rather than potentially change or impose additional rules on pension scheme monies, we would urge the FCA to undertake some more research to validate whether there is a wider issue or not.

Discussion prompt at 5.44:
The comments about selecting and monitoring a bank provider are in our view completely meaningless. To explain: first, there are only a small number of banks that are interested in operating SIPP trustee bank accounts – typically, Metro, RBS, Barclays, (maybe) HSBC and Cater Allen. Second, we are unsure beyond service and possibly rates of interest, what the selection criteria may be. All are PRA and FCA regulated, and quite what the FCA expect a lowly SIPP operator to discover about a bank that is not known to the regulators is not clear. Anyone, including a SIPP operator, should be able to draw comfort that a PRA/FCA regulated bank is okay to use. The selection criteria will be more around the service levels – for example, we have seen recently where one SIPP provider is contemplating using bank B for new individual SIPP accounts because bank A's bank account opening service level has markedly deteriorated.

In terms of reliance on 'other third-parties' our presumption is that the FCA mean in relation to banking. If so, as outlined in the context section above we don't think that SIPP operators do place full reliance on bank records as there is always a match to the internal pension admin system 'bank' records. For example, if a member facilitates an ad-hoc contribution or a tenant pays a double rent payment, this will show in the bank but not necessarily on the SIPP system. In other words, there will be a mismatch which is investigated, rather than simply taking the bank record as read. We think overall that the FCA haven't fully understood the current reconciliation process that typically apply to most firms and the systems that support this. We also think that to insist on firms installing expensive reconciliation tools will be disproportionate for many smaller firms.

In short, unless the FCA can provide more tangible evidence of widespread issues to validate their concerns, we think this is largely a non-issue that does not require further additional rules beyond what is already in place, especially as the non-trading, non-regulated asset trustee automatically applies the segregation of pension scheme monies from the firm's money. If it is that the FCA are concerned about unregulated SIPP Trustee firms falling outside the scope of FCA rules, then any addition to the rules would in our view need to reflect broadly what typically happens now, perhaps a codification of what already happens and consistency of approach (which is already pretty much the case in our experience) rather than going full CASS 7 mode.

Q6: What are your views on our proposal for a more prescriptive approach to be applied across all SIPP operators in relation to the arrangements for scheme assets? We invite stakeholders to both respond to both questions using the prompts suggested under paragraph 5.55.

Discussion prompts at 5.55:
A common theme through this DP seems to be the extent to which a FCA regulated SIPP operator can rely on the specialist services of a another FCA regulated entity. It is accepted that a SIPP operator cannot absolve itself of all responsibilities – if there are concerns about a third-party service provider, these should be acted upon – however it seems a little axiomatic that when set against a political backdrop of a desire for streamlined regulation generally, the fact that one regulated entity can't to a large extent rely on the records of another regulated entity, seems to go against the grain.

A custodian is regulated to safeguard and administer assets, this being a very specific permission set with an attendant set of FCA requirements. At its core, a custodian should be able to demonstrate what it holds on behalf of its customers. If it's running into difficulties, it will have regulatory obligations to inform the FCA, plus we presume that regulatory returns and information requests would similarly flag any issues. We fail to see therefore why in the case of a DIM portfolio, any SIPP operator shouldn't be able to rely on the DIM's (or their custodian's) records, given they are the ones operating the portfolio on a daily basis. Furthermore, other than a couple of high-profile failures a few years ago involving DIMs who were accessing NSAs, we are not aware of any inherent problems impacting the mainstream DIMs and custodians that most SIPP operators use. Again, we suspect the FCA's view here is predicated on an isolated circumstance which is not indicative of the wider sector.

We would also make the point that as technology develops and more technology-based SIPP providers come on stream (within the Simple/Ready-made sectors) online access to members or their advisers is far more commonplace with instant access to their underlying portfolios, using the DIM (or other) records rather than records that are maintained by the SIPP operator.

If a SIPP operator is expected to perform reconciliations on underlying DIM portfolios, then a) this seems like a duplication and waste of effort; and b) would increase workloads and therefore cost. That said, we do think there should be controls in place to ensure that: a) funds have not been inadvertently withdrawn from the underlying portfolio (such that it may be an unauthorised payment); and, b) that an adviser is not taking excessive fees directly from the portfolio. In the case of the former, this will be very rare as DIMs appreciate that withdrawals need to be routed through the SIPP trustee, nonetheless it's a reasonable check for SIPP operators to make, probably once a year (this is deemed reasonable given the probability of this happening). Similarly, excessive adviser fees should already be picked up within the DIM's annual costs & charges statements.

Within this section, we have mainly referred to DIMs on the basis that these are where most assets are invested, however we think our comments equally apply to other FCA regulated investments such as trustee investment plans and platform-based assets.

In the case of impaired assets, while we agree the FCA's concerns, we think they are a little outdated insofar that in our experience, where there is an impairment, the current standard practice is to write these down to £1/£nil, or other value if one can be provided. We would be surprised if many SIPP providers are still quoting impaired assets at cost.

We are unsure to what extent the FCA envisages directly held commercial property being subject to more frequent valuations and updates. We suggest that by and large commercial property should be carved-out from any proposed rule changes. Usually, the property is used by the member(s) so they are closely linked with the property so will more than likely be aware of both its utility and approximate open-market value. Commercial property valuations are typically at least £300-£500 so in most cases this seems an unnecessary cost and hassle for most members. Furthermore, most SIPP operators will insist on periodic valuations every 3-5 years, or when a crystallisation event occurs.

There are some assets outside the regulatory perimeter which are perhaps a little more challenging, the likely examples being intellectual property and private company shares. In our experience, these tend to be few and far between (given the overwhelming propensity for standard assets to be now held). In some cases, these will obviously be impaired however there are a number of examples of private company shares that have flourished. As with commercial property, often the member will be more closely associated with the investment and similar to commercial property, other than infrequent periodic paid-for valuations (typically by a specialist accountant or IP valuer) we do not see the need for the FCA to determine rules for this type of asset, beyond the broad principle-based rules that apply already.

As already highlighted, more frequent checks and/or reconciliations of externally held assets, whether done externally or internally within the SIPP operator would add layers of cost not currently there. We are unsure what benefit the member is going to derive in having to pay for a double reconciliation of say, a DIM portfolio. That suggests to us a sign of an inadequate regulatory system if one entity is having to check all the other entity's work. It feels like having to pay for an MOT or annual boiler inspection, twice. We're also not sure how a SIPP operator would check the underlying records of a DIM, other than deploying an auditor to undertake a root and branch audit of the DIM's transactions.

As with the other sections, unless there are specific concerns (beyond the isolated example(s)), we are not sure what value the additional proposals are going to add.

Q7: If you have received complaints about any of the issues in relation to scheme assets, please outline if you think we should make any new rules or clarify existing rules to address them. Please be specific about which rules you would want us to explore further.

As we are not a SIPP provider, we have nothing to add to this question.

Q8: Do you have any views on a) what the new (additional) costs and burdens would be to firms; and b) any unintended consequences in relation to consumer harm that we should consider when developing our approach?

We have touched on some the cost issues already within previous answers. The greatest impact on costs and burdens will be the potential double reconciliation of underlying scheme assets held within already regulated portfolios. This is two-fold: firstly, the procurement of any reconciliation systems, particularly for the smaller/micro-SIPP operators; and, secondly the labour cost of the oversight of such reconciliations and more frequent valuations. As matters stand, the Simple and Ready-made SIPP models are quite keenly costed such that value for money is in our view delivered, often with a good technology base underpinning the model. This does however mean that margins are fine and with the increasing costs generally of running a business, we do think the FCA should undertake a thorough cost benefit analysis to ensure any additional rules are not burdensome. In the case of Bespoke SIPPs, which tend to be the smaller operators, their customers are already well engaged with their SIPP plus are typically receiving a personalised service through a combination of the SIPP provider and probably, their adviser. Consequently, we are struggling to see what added benefits many of these proposals add to today's SIPP market.

Q9: Are there any other harms not mentioned in this paper that you think will have a significant impact on the SIPPs market going forward?

The one additional potential harm we would like to flag is the outcome from IPRU-INV 5.9.1R that results in many fixed-term deposit ("FTD") accounts falling as a NSA on the basis of illiquidity. With interest rates high and volatile stock markets, many SIPP members view FTDs as safe havens. This is particularly so where a number of FTDs can be spread across a number of providers to maximise FSCS protection. However, as soon as such an investment meets the definition of not being readily realisable (which many FTDs will do) it falls as a NSA which as a very rough rule of thumb will cost the SIPP operator circa £500 in additional cap-ad. While many SIPP operators do allow FTDs, some do not for the reason they won't allow NSAs; or, some providers will charge a fee which in part covers the increased cap-ad requirement. To include FCA/PRA regulated FTDs as an NSA is non-sensical and perverse, and we are sure was not the intention of the financial resource rules. This requires urgent change.

While on cap-ad, while perhaps outside the scope of this discussion paper, one of the biggest customer harms is where a member has a SIPP, perhaps with a distressed SIPP operator, and they cannot transfer their SIPP to another better SIPP operator because the SIPP holds a long-term impaired asset that has long since lost all value and any prospect of recovery and is simply awaiting the formal liquidation or confirmation that the asset has been finally wound-up, so that the asset may be formally written-off. Of course, this confirmation may or may not come, however for all intents and purposes, this is a 'dead' asset. Most SIPP operators will not contemplate taking on such SIPPs because a) they may have agreed with the FCA not to accept NSAs; and/or, b) it adds too much to the firm's cap-ad requirements and probably sets all sorts of hares running with the FCA who suddenly think it's 2010 all over again. This stupid and clumsy approach has to change as at present it means that SIPP customers are sometimes trapped within very poor and unstable environments. The SIPP operator liquid capital rules, with the capital surcharge, were really effective in placing the final nail in the coffin of the acceptance of NSAs. However, the same rules are now being completely counter-productive in hampering investment into FTDs and

acting as an insurmountable barrier to already battered customers from escaping a poor SIPP scenario. This needs to change urgently.

The one other topical matter to perhaps highlight is the recently flagged mismatch between HRMC's interpretation of cancellation rights applying to income withdrawal and the FCA's intent. HMRC's Pension Newsletter 165 set out their position in saying that the lump sum associated with income withdrawal can't be returned where the cancellation right is invoked. We think that based on a strict legal interpretation they may be right. At the time of writing, the FCA is yet to clarify their position. In very broad terms, the right to take an income withdrawal is inextricably linked to the option of taking the tax-free lump sum. A first benefit crystallisation will often be to generate the lump sum only. Once crystallised, that decision can't be reversed other than within the cancellation period, or at least so we thought. Given the FCA's focus on members taking benefits and the risks associated with this, which has led to a plethora of regulatory developments including risk warnings, open market option statements and stronger nudge, it seems to make sense that the final arbiter should be that if a consumer reflects and realises they have made a mistake in crystallising benefits, they should have the opportunity to unwind the complete transaction, which we presume is the policy intent of the right to cancel. Otherwise, it is completely meaningless and the rule should be scrapped, which in our view is in nobody's interest. We are hopeful that discussions are in hand – if not, this matter should be urgently addressed. The FCA can't sit on its hands on this.