AREF
The Association of Real Estate Funds

Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Response by email to ps237@fca.org.uk

10 August 2023

Response to FCA PS23/7 Broadening retail access to the long-term asset fund – Chapter 4: Access to the Financial Services Compensation Scheme

We, the Association of Real Estate Funds[1] (AREF), do not support the FCA's proposal to not include Long Term Asset Funds (LTAFs) within the scope of the Financial Services Compensation Scheme (FSCS).

We feel that solely excluding activities relating to the LTAF from the FSCS would result in dissuading retail investors from investing in LTAFs and advisers from offering them. This, in turn, could deter firms from launching LTAFs suitable for retail investors.

We note that compensations schemes in other jurisdictions do not typically cover claims for investment advice. However, we do not see this as an argument for the compensation scheme in the UK to follow suit. The FSCS gives consumers' confidence that if a firm does not meet regulatory or legal requirements when giving advice they are able to obtain appropriate compensation even if the firm is financially unable to meet their claim.

Also, we believe that the complexity or level of risk of the investment product should not be a reason for not offering consumers the safety net of the FSCS especially where the product is an authorised fund such as the LTAF.

If the FCA wishes to review the scope of the FSCS, we believe this should be undertaken as part of a comprehensive review and not on a piecemeal basis.

Our detailed response, to questions in Chapter 4 of PS23/7, is provided below. Please contact either myself (prichards@aref.org.uk) or Jacqui Bungay (jbungay@aref.org.uk), Policy Secretariat at AREF, to discuss any aspect of our response.

Yours sincerely

Paul Richards

Managing Director, The Association of Real Estate Funds

[1] The Association of Real Estate Funds represents the UK real estate funds industry and has over 50 member funds with a collective net asset value of more than £50 billion under management on behalf of their investors. The Association is committed to promoting transparency in performance measurement and fund reporting through the AREF Code of Practice, the MSCI/AREF UK Quarterly Property Funds Index and the AREF Property Fund Vision Handbook.

AREF
The Association of Real Estate Funds

Response to FCA PS23/7 – Chapter 4: Access to FSCS

The FSCS and LTAF products with higher investment risk

Q1	***Do you consider that we should consult on removing FSCS protection for either (a) some activities relating to LTAF – in which case which ones; or (b) all activities? If not, why not.*** In respect of FSCS protection, we believe that the LTAF should not be treated differently to other authorised funds. We feel that solely excluding activities relating to the LTAF from the FSCS would result in dissuading retail investors from investing in LTAFs. Advisers would have to justify why they have recommended investing in LTAFs rather than investment products covered by FSCS. This, in turn, could deter firms from launching LTAFs suitable for retail investors. We understand that some wealth managers take a prudent approach by carefully spreading investment risk so as to not breach the current limit of £85k per manager to ensure compensation is available for their clients. By actively recommending to a client to invest in an LTAF they will have to advise that it does not fall within the FSCS. Even though the LTAF may be the best fit for the client's investment needs, not being covered by FSCS could sway their judgement. Additionally offering products not within the FSCS could alter wealth managers' professional indemnity insurance premiums and be an active reason why they would not recommend an allocation. Also, if the wealth manager runs wider models across their whole business they may require opt outs for all their clients which may not work either operationally or in line with how their risk management procedures work. The FSCS covers instances when a firm does not meet regulatory or legal requirements and, as a consequence, there is a loss to the consumer. The FCA should be ensuring firms are meeting these requirements for all types of investment products. As mentioned in PS23/7, the introduction of the Consumer Duty requires firms to ensure that investors do not invest without a strong understanding of the risks. This should not be any different whether an investment product is viewed as a low or high-risk product. Compensation, due to poor advice, should be available even if an investment product is "complex with higher investment risk".

Q2	***If you support removal of LTAF from FSCS coverage, do you agree that steps should be taken to confirm the policy rules for this as soon as possible, so that these changes are made at this early stage in the process of LTAFs being distributed directly to retail investors?*** We do not agree with the removal of LTAF from FSCS coverage.

Q3	***If not, do you consider this should be kept under review as part of our wider work on FSCS cover for activities relating to investment products?*** We can understand that the FCA may wish to review the coverage of FSCS to ensure it is providing the best protection for retail investors and is fair for all firms distributing products covered by FSCS. However, we believe that there should be a comprehensive review, conducted holistically, across all investment products covered by FSCS and changes to the coverage of FSCS should not be undertaken on a piecemeal basis.

Q4	***Are there other amendments to FCA rules, for example, on distribution and the operation of LTAFs, that you would make if FSCS coverage was limited, to enhance consumer protection?*** We believe the best protection for consumers is to include LTAFs within FSCS.